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Sierra Club Oral History Series

Phillip S. Berry

SIERRA CLUB PRESIDENT, 1991-1992:
THE CLUB, THE LEGAL DEFENSE FUND, AND LEADERSHIP ISSUES, 1984-1993

With an Introduction by
R. Frederic Fisher

Interviews conducted by
Ann Lage
in 1993

Underwritten by
the Sierra Club

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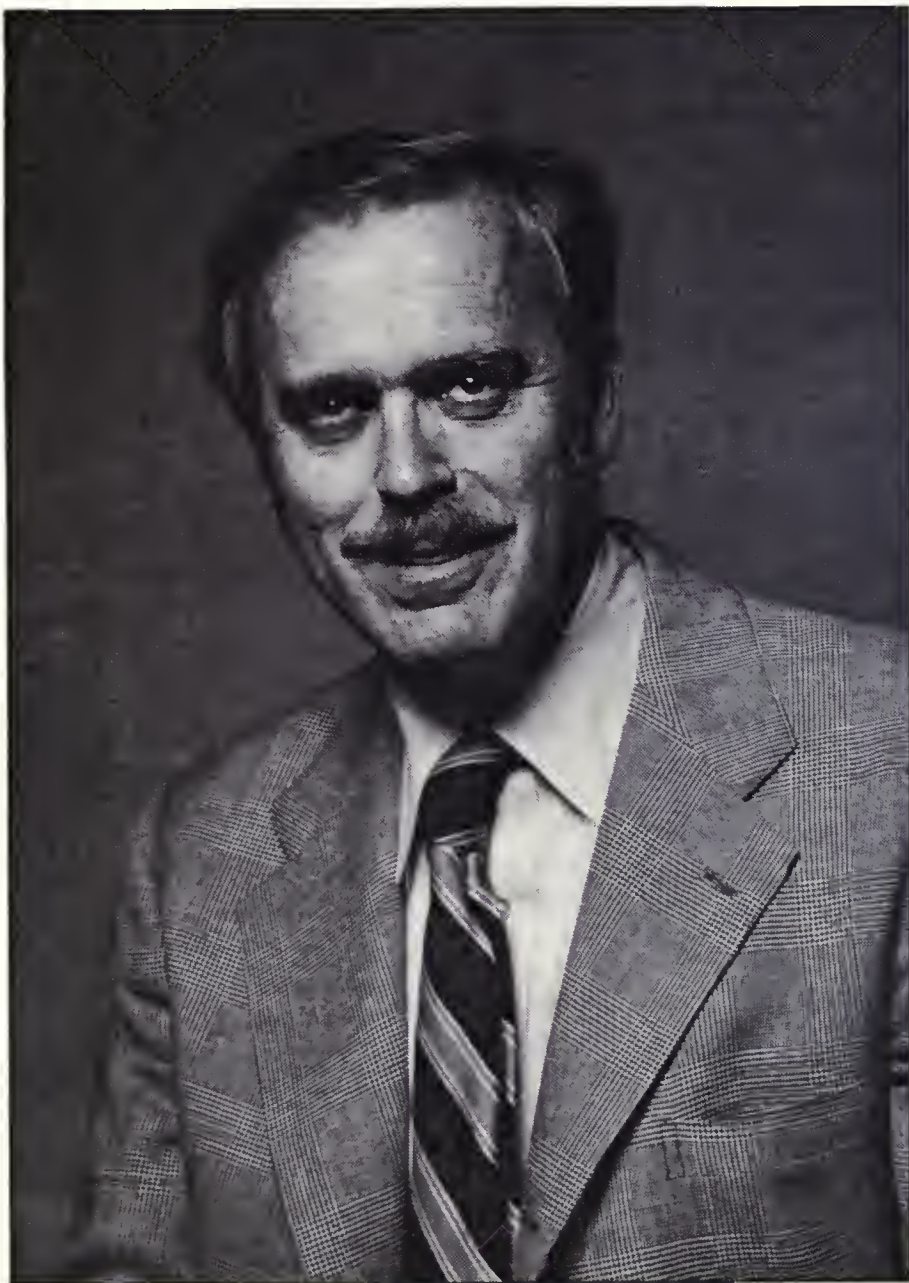
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With an introduction by R. Frederic Fisher.

Interviewed 1993 by Ann Lage for the Sierra Club Oral History Series, Regional Oral History Office, The Bancroft Library, University of California, Berkeley.

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PREFACE--Sierra Club Oral History Program to 1978

In fall 1969 and spring 1970 a self-appointed committee of Sierra Clubbers met several times to consider two vexing and related problems. The rapid membership growth of the club and its involvement in environmental issues on a national scale left neither time nor resources to document the club's internal and external history. Club records were stored in a number of locations and were inaccessible for research. Further, we were failing to take advantage of the relatively new technique of oral history by which the reminiscences of club leaders and members of long standing could be preserved.

The ad hoc committee's recommendation that a standing History Committee be established was approved by the Sierra Club Board of Directors in May 1970. That September the board designated The Bancroft Library of the University of California, Berkeley as the official repository of the club's archives. The large collection of records, photographs, and other memorabilia known as the "Sierra Club Papers" is thus permanently protected, and the Bancroft is preparing a catalog of these holdings which will be invaluable to students of the conservation movement.

The History Committee then focused its energies on how to develop a significant oral history program. A six-page questionnaire was mailed to members who had joined the club prior to 1931. More than half responded, enabling the committee to identify numerous older members as likely prospects for oral interviews. (Some had hiked with John Muir!) Other interviewees were selected from the ranks of club leadership over the past six decades.

Those committee members who volunteered as interviewers were trained in this discipline by Willa Baum, head of the Bancroft's Regional Oral History Office (ROHO) and a nationally recognized authority in this field. Further interviews have been completed in cooperation with university oral history classes at California State University, Fullerton; Columbia University, New York; and the University of California, Berkeley. Extensive interviews with major club leaders are most often conducted on a professional basis through the Regional Oral History Office.

Copies of the Sierra Club oral interviews are placed at The Bancroft Library, in the Department of Special Collections at UCLA, and at the club's Colby Library, and may be purchased at cost by club

regional offices, chapters, and groups, as well as by other libraries, institutions, and interested individuals.

Our heartfelt gratitude for their help in making the Sierra Club Oral History Project a success goes to each interviewee and interviewer; to everyone who has written an introduction to an oral history; to the Sierra Club Board of Directors for its recognition of the long-term importance of this effort; to the Trustees of the Sierra Club Foundation for generously providing the necessary funding; to club and foundation staff, especially to Michael McCloskey, Denny Wilcher, Colburn Wilbur, and Nicholas Clinch; to Willa Baum and Susan Schrepfer of the Regional Oral History Office; and last but far from least, to the members of the History Committee, and particularly to Ann Lage, who has coordinated the oral history effort since 1974.

You are cordially invited to read and enjoy any or all of the oral histories in the Sierra Club series. By so doing you will learn much of the club's history which is available nowhere else, and of the fascinating careers and accomplishments of many outstanding club leaders and members.

Marshall H. Kuhn
Chairman, History Committee
1970-1978

May 1, 1977
San Francisco
(revised March, 1992, A.L.)

The Sierra Club Oral History Program, 1978-1992

Inspired by the vision of its founder and first chairman, Marshall Kuhn, the Sierra Club History Committee continued to expand its oral history program following his death in 1978. In 1980, with five ROHO interviews completed or underway and thirty-five volunteer-conducted interviews available for research, the History Committee sought and received funding from the National Endowment for the Humanities for a major project focusing on the Sierra Club of the 1960s and 1970s. In a four-year period, NEH and matching Sierra Club funds made possible the completion of an additional seventeen major oral histories conducted by the Regional Oral History Office and forty-four volunteer-conducted interviews.

Oral histories produced during and following the NEH grant period have documented the leadership, programs, strategies, and ideals of the national Sierra Club as well as the club grassroots at the regional and chapter levels over the past thirty years. The work of the club is seen in all its variety--from education to litigation to legislative lobbying; from energy policy to urban issues to wilderness preservation; from California to the Carolinas to Alaska, and on the international scene.

The Sierra Club oral history program, together with the extensive Sierra Club papers and photographic collection in The Bancroft Library--a collection of 1325 linear feet of archival records, more than 34,000 photographs, and films, tapes, and Sierra Club publications, all recently processed and catalogued--help celebrate the Sierra Club centennial in 1992 by making accessible to researchers one hundred years of Sierra Club history.

Special thanks for the oral history project's later phase are due Maxine McCloskey, chair of the Sierra Club History Committee 1988-1992; Ray Lage, cochair, History Committee, 1978-1986; Susan Schrepfer, codirector of the NEH Sierra Club Documentation Project; members of the History Committee; and most importantly, the interviewees and interviewers for their unfailing cooperation.

Ann Lage, Coordinator
Sierra Club Oral History Program
Cochair, History Committee
1978-1986

Berkeley, California
March 1992

INTRODUCTION by R. Frederic Fisher

Mention the Sierra Club anywhere in the English-speaking world or even outside it. There is a very high probability that the name and the club's mission will be instantly recognized and seen as almost synonymous with environmental protection and conservation activism. Likewise, there are probably two Sierra Club leaders' names, John Muir and David Brower, having broad public recognition.

This short piece is about a figure whose large and lasting accomplishments for the club are counterparts of theirs in importance, whose fierce determination is at least their equal, and whose name should be more widely known and celebrated.

Phil Berry is a very tough, apparently tireless, extremely resourceful, and highly skilled trial lawyer. Notwithstanding that, he is a kind and thoughtful human being although something of an outrageous tease. These are the same qualities that he shows as a cross country Sierra trip leader. He takes you to spectacular places where there is no one else, by routes you couldn't imagine or find on your own, and he wears your butt down but not off. He has put those valuable qualities, minus the teasing, and prodigious amounts of what would otherwise be his private time at the service of the conservation cause and of the Sierra Club. As one who has known Phil since 1958, the year we both entered Stanford Law School, I don't know when the man sleeps, except in the Sierra where he snores like a bear in late winter.

The continuing success that the club has enjoyed depends not just on broad and enthusiastic member and popular support but also on a small number of steady, canny, tireless and committed individuals who constitute a kind of backbone of the organization. Phil is a key part of the club's backbone, and he has been so since the early 1960s. The backbone, it will be recalled from the song, is connected via the neckbone to the headbone. Phil's own headbone and what it produces in his profession, as a club leader, as a composer of devilish and funny satire in verse form and as a finder of improbable mountain routes that (usually) "go" is quite wonderful. It is also remarkable in a fellow known to have acquired a remote and strangely beautiful ranch south of The Pinnacles because he likes to clear brush and to shoot innocent wild boar and in a man who finds intense satisfaction in crashing through poison oak thickets, up waterfalls, and down scree slopes to separate "trouts" from the remote waters they inhabit.

The first example of Phil's backbone and headbone role in the club is one that I encountered well before he became its president, and it brought me into the conservation cause. Phil started the club's now dazzlingly successful national legal program to protect wild places and

the environment through aggressive court action. Phil thought that up and moved it forward at a time when it wasn't clear that it would be possible even to get the Club into the courthouse door as having the necessary "standing" to bring a lawsuit without having a "property" interest in the dispute. Phil's role is insufficiently celebrated. I, for example, have twice received awards, almost certainly at Phil's behest, for starting the Sierra Club Legal Defense Fund, the national law firm for the environment. It was Phil, however, who is the real but unacknowledged father both of this hard hitting national legal program and of a counterpart pro bono legal program, based mainly on volunteer efforts, which the club has directly mounted.

Phil entered law school with a clear and unambiguous vision both of a trial law practice together with his father (the eminent Oakland trial lawyer Samuel Berry) and a commitment to protecting wild places. By contrast I had aimlessly gone to law school because I couldn't think of anything else to do. Until Phil took me to the North Yosemite back country (Matterhorn, Stubblefield, Upper Thompson Canyons and Tower Peak), to the rough Ventana wilderness back country, and through various nameless but intolerable mosquito haunts and poison oak jungles), the extent of my exposure to wild places had been an ill-starred car-camping trip with my parents following junior high.

Unlike first-year law students who throw themselves recklessly on the verbal bayonets offered by law school professors, Phil had the good sense to lie low until he could speak with confidence. In consequence, after a month of law school I still hadn't connected the name Phil Berry with a particular individual sitting in my classes until an introduction occurred in absentia in the Stanford post office.

Stanford was not noted at the time for having either beautiful or even very many women students. That came as a nasty surprise for me, since I had selected Stanford Law School because its catalog, unlike others, had featured a palm tree and a girl on its cover. On the afternoon in question I found myself in a post office line behind two very dramatic exceptions to this folklore. I struggled with a plausible opening line whilst hanging in close and awaiting a pause in their conversation. And then I heard it: A: "How about asking that dreamy Phil Berry?" B: "The big blond law school guy with the pipe?" A: "Yeah, but you'll probably be in a line longer than the one we're standing in." I could not speak. There arose in me an instant hatred for my classmate, the "dreamy" but unknown Phil Berry. That hatred was both ameliorated and vindicated when these two dazzling Berry pickers got to the head of the line and received, wouldn't you just know, their then officially Republican TIME magazines along with their letters from mom and dad. I knew at the time that there would be more credible reasons why this instant hatred would prove justified. In the next forty years, however, I have been unable to find any. Phil even

abandoned his nominally Republican party affiliation even though I argued for years that he do so.

Since that time, as the subjects covered by Phil's oral history make clear, Phil has been at the heart of one after another of the major substantive issues and accomplishments of the club. Phil's perseverance in pursuing these issues and his mastery of both subject matter and organizational technique is not the point of his oral history, but the story he tells about club matters is one that would be very different if Phil were not the man he is. Phil reminds me of the bulldozers he has fought against over the years. In his case, however, the world that we live in is a lot better for his being there.

R. Frederic Fisher
Chairman, Board of Trustees,
Sierra Club Legal Defense Fund

July 1997

INTERVIEW HISTORY--Phillip S. Berry

When he wrote the introduction to the first oral history with Phil Berry in 1985, August Frugé predicted:

Phil Berry, still not out of his forties, has known the Sierra Club throughout its period of violent growth, through its time of politicization, has known it from rock climbing in the fifties to politics in the eighties, and continues to play a central role. . . It is an unfinished story. Perhaps it is like the first act of one of those mock dramas that Phil used to write and circulate to reduce tension in himself and others. Later acts are to come, meaning that there should be further interviews.

During the decade following that first oral history, Phil Berry continued his leadership role in the Sierra Club, as an active member of the Board of Directors and vice president for the legal program. In 1991-1992 he served as club president during a year of financial crisis, staff dislocations, and turmoil over the club's relationship with the Sierra Club Legal Defense Fund. Further interviews were most definitely called for, and the opportunity to record these further interviews came in 1993 when the Board of Directors asked the Regional Oral History Office to conduct exit interviews with its most recent presidents, as part of the ongoing Sierra Club Oral History Series.

Since the initial interviews, recorded in 1981 and 1984, covered Phil Berry's background and introduction to the Sierra Club in his teens and his activities in the club up until that time, this oral history was focused on his observations on the more recent leadership of the club, a discussion of selected issues during the years 1984-1993, and the events of his term as president. A central topic was the club's troubled relationship with the Sierra Club Legal Defense Fund, a sister organization which Phil Berry helped found in 1971 and in which he had played a pivotal role for the ensuing twenty-two years.

The interviews were recorded on three evenings in June and July 1993 at Phil Berry's home in Lafayette, California, where he lives with his wife and fellow club leader, Michele Perrault, and their son, Matthew. The interviews were relaxed, coming for Phil at the end of long days at his law firm, Berry and Berry, in Oakland. I had known Phil not only as his interviewer in the previous oral history but also in my capacity as chair of the Sierra Club's history and library committees off and on over the years. He spoke freely, with his characteristic wit, which comes through to the careful reader of this transcript but not as forcefully as it does in actual conversation.

Once recorded, the processing of the oral history from tape to the written word was delayed for several years, in part by funding problems for the club's oral history program and by Phil's own busy schedule. He made a careful review of the initial transcript and read through the final product as well. His changes for the most part were not substantive, but reflected his own sense of precision and cogency in language. As in his previous oral history, he asked that the tapes and original transcripts of the interview sessions not be saved. At Phil's suggestion, we asked Fred Fisher, his longtime friend and backpacking companion and fellow founder of the Sierra Club Legal Defense Fund, to write the introduction to this volume; we thank him for providing this contribution.

Phil Berry has continued to write his mock dramas parodying board meetings and debunking pomposity. Three of these are deposited in the Bancroft Library as supplementary materials to the oral history. The Report of the Committee on the Parable of the Small Fish, in this same vein, is included as Appendix C.

Other recent Sierra Club oral histories complement this one in giving a picture of the club in the 1980s and 1990s, from the point of view of both the volunteer leadership and the club staff. These include interviews with Michael Fischer, executive director, 1987-1992; Susan Merrow, president, 1990-1991; longtime volunteer extraordinaire Edgar Wayburn (part two on the 1980s and 1990s). Researchers interested in the history of the Sierra Club and the environmental movement will want to consult the finding aids to the extensive collection of Sierra Club records and members' papers in The Bancroft Library.

The Regional Oral History Office was established in 1954 to record the lives of persons who have contributed significantly to the history of California and the West. One of its major areas of investigation has been natural resources and the environment, with series documenting California Water Resources, forestry, mining, and parks and the environment. The Regional Oral History Office is a division of The Bancroft Library and is under the direction of Willa K. Baum.

Ann Lage, Director
Sierra Club History Series

Berkeley, California
September 1997

BIOGRAPHICAL INFORMATION

(Please write clearly. Use black ink.)

Your full name Phillip Samuel Berry

Date of birth Jan. 30, 1937 Birthplace Berkeley, CA

Father's full name Samuel Harper Berry

Occupation Lawyer Birthplace Logan, Iowa

Mother's full name Jean Mobley Kramer

Occupation _____ Birthplace Ithaca, NY

Your spouse Michele Ann Perrault

Occupation Conservationist Birthplace New York, NY

Your children David, Douglass, Dylan, Shane and Matthew

Where did you grow up? Berkeley, CA

Present community Lafayette, CA

Education A.B., English, Stanford University, 1958

L.L.D., Stanford Law School, 1961

Occupation(s) Lawyer

Areas of expertise Trial and environmental law; specialty in tort litigation

Other interests or activities Conservation; preservation of tiger species, writing, backpacking, fishing, climbing

Organizations in which you are active Sierra Club

I OBSERVATIONS OF THE SIERRA CLUB AND THE SIERRA CLUB LEGAL
DEFENSE FUND, 1984-1993

[Interview 1: June 2, 1993] ##¹

Increasing Complexity and Sophistication of the Club

Lage: If you were going to talk about major trends in the club in the eighties and into the nineties, what would you pick as the most important, the biggest changes?

Berry: The growth in size, and the resulting organizational changes, toward the more complex. The deeper sophistication of the club in handling problems, and the need for that, because of the change in the mix of our agenda. It's easy for an organization to handle preservation projects--you know what you want to save, and you know more or less how you want to do it--but energy, transportation, air pollution, international issues--those require a greater depth of knowledge and a more detailed approach. Those subjects are complex and require real expertise to understand them.

Lage: And does that come from the staff or the volunteers? Has that resulted in change?

Berry: I think it comes from both, in about equal measure, as it did before.

Lage: It's kind of amazing, I think, that the club's been able to keep up that level of volunteer involvement.

¹## This symbol indicates that a tape or tape segment has begun or ended.

Berry: Yes, the balance has been maintained. There's always individual circumstances where you see an imbalance, and then you move to correct that.

Lage: Is that something that you've been particularly concerned with?

Berry: Any board member in a democratically elected organization has to be alert to that. Some are better able to see a problem before it develops large, and some are just by personality or character more prone to see it.

Lage: Is there a consistency of belief in what the balance should be between volunteer input and staff?

Berry: That will vary from time to time based upon the nature of the staff and board. At any time, you may have staff who believe the inertia of the volunteers, their occasional lack of expertise or understanding, their tendency--because this is an avocation--to drop the ball occasionally--all those things will cause some staff to want to shortcut the process, and they grow impatient. Sometimes, not very often. I don't say they are disrespectful--because I don't think that's ever there--but sometimes prone to disregard the volunteer structure.

And then on the other side, some board people at times try to micromanage the staff. That becomes a serious interference. Then there's a synergistic thing that occurs wherein alliances crossways develop. Certain staff become friendly with particular board people, forming alliances based on just friendship and nothing more, or shared points of view, or sometimes it's a clique.

These are perennial problems for both sides, because occasionally individual staff people, sometimes at a lower level, will have their advocates on the board. Should they ever feel threatened, there's a short-circuiting of the whole management process. And the opposite can occur. Some board people will choose to advance themselves--or, more likely, their ideas--by cultivating staff people. This is at times a serious problem, not at all unique to the Sierra Club; it's just the way human beings work. So you have to watch those things.

Lage: Some of that I hope will come out in individual instances.

Berry: Well, looking at your outline [see Appendix A], I think some of those problems are deep in the examples you've chosen.

Mike McCloskey as Executive Director and Club Chairman

Lage: Let's stay with the general overview for a minute and look at the recent succession of executive directors the club has had, after only having had two up until '85.

Berry: That's right.

Lage: And now there have been three more. What about Mike McCloskey's move to being chairman? Can you give a little background on how that happened? [Mike McCloskey was executive director, 1969 to 1985, when he became chairman of the Sierra Club.]

Berry: I can give some. Though not deeply involved in the process, I listened to most of it.

There was a perception by some board people that Mike was not a good administrator, and there's some truth in that, because no one could be the perfect administrator for the club. And you can say that of all who have succeeded him, and certainly say it of Brower. So--

Lage: It might be a hard group to administer.

Berry: Of course it is. That's an almost impossible job. The only thing we have done, positively and successfully, to overcome, that is create a position wherein, at a very high level, the financial affairs of the club are essentially turned over, sub-delegated from the executive director, to an administrative and financial executive.

Lage: But they tried that under McCloskey.

Berry: Well, we did and we didn't. One criticism of Mike was he wasn't happy making a full delegation, and either by bad luck or for whatever reason didn't have people as strong as himself in the second job. Whether that was his own choice or just the way the cards came up, I don't know. There was certainly some feeling, and at times I shared it, that a more diligent search could and should have been made for stronger people in some of those lesser roles.

The conservation side also suffered from there never being total clarity on who was second in command. In his defense, it's an extraordinarily difficult club to manage.

Lage: So he was moved to be chairman?

Berry: Well, ultimately by his own choice. Several people on the board pushed very hard to have him make that choice, and spoke to him in terms encouraging the choice finally made.

Lage: As it turned out, his role as chairman sounds like a very nice job.

Berry: It's suited to him. He's reflective and knowledgeable and his strongest suit is identifying trends and putting ideas together from afar to demonstrate where the reality is. It's more an academic role, better suited to his personality than having to be on the bridge, on twenty-four hours call, to navigate the ship. So he does very well in that new role, and is extraordinarily valuable to us.

Lage: He really does come up with some impressive analysis.

Berry: Yes. It's far and away the thing he does best, and does better than anyone else. Not just in the club, but in the entire conservation movement. He does an extraordinary job.

Douglas Wheeler's Executive Directorship: Problems with Staff and Board, 1985-1987

Lage: Did you then have a role in the search committee for Doug Wheeler?

Berry: No. I did not play a role in the search for any of the three successors.

Lage: Then would you still be able to say something about what the board was looking for, or why Wheeler was chosen, for instance?

Berry: When Wheeler was chosen, there was a division on the board about what they wanted. Some really wanted a manager, not a leading conservationist, or a conservation thinker necessarily. Someone familiar with the issues, but more able to lead the business side of the club. In fact, some spoke in favor of outright hiring a business manager for the job.

I never agreed with that. I felt the thing was to have a strong finance person as second in command, and make sub-delegations. [interruption] Where were we?

Lage: We were talking about what the club was looking for when they hired Doug Wheeler.

Berry: Well, there wasn't clarity about that, and that's part of what led to his selection. He seemed to fit both bills, and in many ways I think did.

Lage: He had the business side--

Berry: He seemed in his manner and background to have a good grasp of the business sides. He also impressed those of us who first and foremost wanted a conservationist. At the last meeting prior to the choice, there was an opportunity for him while speaking as staff head of the American Farmland Trust to address us on a conservation issue. He gave a good talk, was inspired, had a good feeling for the subject matter, and expressed viewpoints congruent with our thinking. So he pleased both sides or points of view.

Lage: So from your perspective, what were the problems that seemed to ensue rather rapidly?

Berry: There were problems from everybody's point of view, but seen in entirely different ways. There were some obvious gaffes. For example, he undertook all on his own once to remake our logo, which displayed a naiveté about the nature of the organization and its traditions.

Lage: It's a very striking example, but were there others that weren't so striking, but also displayed--

Berry: Well, there's nothing I'd put in one place with that, but to some it was a disturbing sign--a total lack of understanding. To others of us, it was almost amusing. I wrote one of my plays about it.

Lage: You mean you're still writing the plays?

Berry: Oh, there's at least twenty or thirty since then.

Lage: Wish I was on your mailing list.

Berry: Well, very few of them get outside my house. I'll give you some if you want. Many bear on these problems described here. They're simply my way of--particularly if I lost [laughter]--cutting loose with a final statement on what bothered me.

The logo remake was a striking example of his not understanding the club, but I viewed it as a more solitary example than others did. There was nothing quite the equal of it, in the examples others cited.

There was, on the staff side, a large degree of dissatisfaction, and even though I sat through many, many private

meetings listening to them, I could never quite understand the furor.

Lage: Did the staff make end runs around Doug Wheeler to bring their dissatisfaction to the board?

Berry: Oh, yes. There was one gigantic end run, not only an end run--they left the playing field to do it. There was a senior staff rump meeting to which the president, because he was absent for some reason, was not able to go, and the vice president, Bob Howard, went.

Lage: Was Michele [Perrault, wife of Phil Berry] president?

Berry: No, Larry Downing was president.

Lage: Okay. Michele was president when he was hired.

Berry: And to that luncheon meeting, held either the day before the board was to meet in closed session to discuss the budget, or the day of such a meeting, Bob was invited. There he was confronted with virtually an ultimatum to get rid of Wheeler.

Lage: And where was Wheeler?

Berry: I don't know, not at the meeting obviously. I always felt Bob should have right at that moment said, "Look, you're entitled to your point of view. If there's grave dissatisfaction, we'll certainly learn about it at some time, but you do not give the board of directors an ultimatum. You do this in an entirely different way." Bob was caught unaware and equivocated at that moment. There might have been an entirely different outcome had someone talked to staff in very plain terms, saying you simply don't do it this way, and I want an end to this right now.

Lage: Was the ultimatum that they would all quit?

Berry: I think some of them spoke of quitting. And others obviously had some of those short circuits we spoke of earlier already operating--

Lage: Connections to the board--

Berry: --sufficient to know they would find support at the board level. This is part inference, but it seemed rather obvious to me.

The board then met, and amongst some directors there was a degree of equivocation. But Larry Downing, then president, and his best friend, not just in the club but anywhere, [Denny] Shaffer,

had been very critical. And it, of course, counts who's presiding. There's a lot of power in that position. The whole thing got rather savage very quickly.

Lage: And this is in the board meeting?

Berry: In closed session. A lot went on. I recall one incident in particular where John McComb, one of those very strong advocates to get rid of Wheeler, came in and said Wheeler was a liar.

Lage: Wheeler?

Berry: Wheeler. I had never heard that accusation before, and said, "John, that's a very serious charge for a staff subordinate to make. I want to know the reasons for it." He said, "I have a file on it." I said, "Well, then you'll share that file with us, won't you?" And he said, "I'll think about it."

I had a flash of anger. I said, "John, that's not what you tell the board when you're staff. If you make a charge against the executive director, and are asked for a file, which you say exists, then you turn it over." I was very short with him. Ultimately, no such file was produced.

A desultory process was gone into, with a mediator brought in. I'm not certain I believe in that kind of process for these circumstances.

Lage: The mediation and reconciliation?

Berry: I'm not opposed to mediation, or reconciliation, but I'm a little dubious about the ability of a total outsider to mediate such things, or to fact-find.

Lage: You've seen a lot of it, so maybe you have a lot of examples.

Berry: Maybe I've just seen some bad examples. But in any event, such a person came in, and a good-faith effort was made. I don't mean to disparage that person's expertise, but the process itself didn't really get at much.

Lage: This was to mediate between the staff and Wheeler?

Berry: To try to find out, in essence, whether there was anything to salvage. The report was lengthy, mostly what I call "this and thating." It was inconclusive, in my view. Others cited it as conclusive, some on one side and some on the other. I became aware there was dissatisfaction with Wheeler, but the particular reasons and incidents were still cloudy.

In any event, that document then was cited on both sides to either support or oppose him. He ultimately lost by a single vote. One vote was cast by somebody late to the meeting who didn't even read the document. One vote was cast by Dave Brower, who seemed obsessed with one or two incidents wherein he thought Wheeler was not tough enough.

Lage: Tough enough with regard to conservation agenda?

Berry: Yes.

Lage: Did each person seem to have their own reasons, as you--?

Berry: Yes. I viewed it that way. There was a great schism on the board, wherein Downing and Shaffer had their adherents, many of whom were very close to them personally. The opposing group I don't think was as cohesive.

All sorts of reasons were cited--he wasn't a good enough business manager, he wasn't a good enough conservation leader, he didn't inspire the staff, he didn't understand the club. That was one set of arguments.

Lage: Now, what were your arguments in defense of him?

Berry: I thought he'd not been given an adequate opportunity. Certain things, such as the logo incident, certainly raised some doubts. A focus was on the budget, his failure to--or what was described as his failure--to put together an adequate, balanced budget.

Well, the board itself had not at that point perfected the processes that now exist within the finance committee to work all those problems through in a sophisticated and balanced way. A large part of the burden then fell on the staff, and the tradition--certainly not a red-hot one, mind you--had nonetheless been to sort of flail and thrash at the board budget meetings to resolve all these things.

It was a wonderful opportunity once a year for everybody to posture around. And of course, anybody who didn't speak up for grassroots, you knew was not a conservationist. They couldn't possibly be a Sierra Club member. So many felt they had to speak in favor of grassroots, in this context a metaphor and a symbol without a whole lot of meaning, except you knew whoever used those words was on the attack--not so much proclaiming their own adherence to grassrootsism but somebody else's assumed lack of it, as he viewed it.

Lage: Have you done a play on this, on the budget meetings?

Berry: Yes, there are a couple of plays on that--going further back in time, one cast in Medieval times, with the title "Drag On Fighting." But there are more than one of those plays; I'll show them to you.

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Berry: There are several on the budget process.

Lage: Sounds like a natural.

Berry: In the official history of the Sierra Club, my first play was cited in the text. [laughter]

Lage: The "Great Hero" one, or was there an earlier one?

Berry: The "Prometheus Unboundaried" [1969] one. Well, enough of that.

The whole process of talking about Wheeler and debating didn't change anybody's mind. Brower may have been on the fence to some degree, but the lineups otherwise I didn't think seemed to change. There was tremendous hostility, entirely too much for an organization with the exemplary goals and idealism of the club.

Lage: Why did this generate so much hostility, do you think?

Berry: I'm not sure the controversy alone can be blamed for that. The means by which it was gone about, I think generated much of the hostility.

Lage: Do you think Wheeler had offended particular board members by particular incidents, or were they really just objecting in a general way to his abilities, his style?

Berry: I don't really know. All I know is it got very heavy on the one side with the criticism. In reaction there was a tendency, of course, to fight back, somewhat in kind. The deep division on the board continued through the selection of Fischer. It was not a happy time.

Lage: Was his Republicanism at issue?

Berry: I think in part, yes. That bent Dave Brower's view of the whole matter. And from the outset, I think it raised a point of doubt with many people. The board, more than the club generally, tends to be oriented toward the Democratic party, more toward the liberal side of the political agenda. So that probably did hurt him.

Lage: Was there a thought when he was hired that somehow it would help in that period of Republican leadership in the country?

Berry: Yes, that thought was expressed, and there was some hope that it would display our evenhandedness on issues.

Lage: Now, I wouldn't associate that kind of view with you. Was that something you subscribed to?

Berry: That we wanted the Republican party to embrace conservation?

Lage: No, maybe I didn't hear what you were saying properly.

Berry: I want both parties to embrace conservation, just like they embrace all goodness, at least theoretically.

Lage: Apple pie.

Berry: Apple pie, right. I'm not sure what thought you're challenging as not being mine.

Lage: The thought that the club would sort of moderate its views to fit the climate of the time.

Berry: No, that's not the view I was expressing. We should not change our views at all, but should make them as obvious to Republicans as to anybody else. Our views are profoundly conservative. With some delight before Republican groups, I point out that the real radicals are those trying to change the earth for short-term gain and without regard to these essential things to be maintained over not just generations but all time if we're going to survive.

So I did not regard Wheeler's Republicanism as a demerit, but it certainly bore watching because Republicans so often lapsed back into another form of conservatism. But I felt Doug could handle all these things, or at least be given a larger opportunity to try than he was given.

Lage: The strength of the staff's revolt against him is surprising, though. They seemed pretty united in their opposition.

Berry: Yes, and that included some people who just joined the staff and were simply going along, which I felt was inappropriate. If people had strong views, we should give an adequate hearing, not in the manner it actually developed, but in some manner. Perhaps it was inevitable in view of those strong adverse feelings. But I was perplexed as to why it was so adverse. I'm not really the one you need to interview here if you want to get to the bottom of this one, because I still don't understand it myself.

Lage: Who would most understand it, do you think? Doug Wheeler would be one, I suppose.

Berry: Doug was very hurt by the savageness of it, and--[telephone interruption]

Lage: I had asked you who would be a good person to get the inside story, and you were talking about Doug Wheeler.

Berry: Doug would have points of view. The whole process was so hostile he was understandably very shaken by it, as anyone would have been.

Lage: These executive sessions were without his presence?

Berry: Some involved him, most did not. He felt very besieged, and probably as perplexed as anybody by this. You certainly should at some point seek his views. He took it remarkably well, given the nature of the attack and its outcome.

Lage: What about Doug Scott? Was he kind of a leader on the staff?

Berry: He appeared to be. At one point, somebody quoted him as saying there could only be one Doug there. He seemed highly partisan in the matter. You certainly should seek Doug Scott's views, because I think there you'll find what was really gnawing at the staff and an articulate message about the problems.

Lage: How about Denny Shaffer? Do you think he was a leader on the anti---?

Berry: Oh, unquestionably. He will probably be much more enlightening than I am.

Lage: But different.

Berry: Quite different, I'm sure.

Lage: Okay, I don't want to dwell too much on Doug Wheeler, unless you have anything to say about his style of leadership, if that was important after McCloskey, before Fischer. Did he stand out with a certain style of leadership?

Berry: I'm not sure he had the time to display his style. His jobs since have been either in Republican administrations--he's been in the [Governor Pete] Wilson administration--or in more conservative conservation groups where his own political views might be regarded as more compatible with most people surrounding him.

I think Doug probably operates best amongst people more conservative than himself, and then is better able to lead. He's a genuine conservationist, with strong and good feelings about the environment. Moderate Republicanism, which is compatible with his views, may be the best place for him.

So maybe in the long run, it was better for Doug Wheeler, perhaps better for the club, I don't know, and he certainly seems to have survived it. He's done marvelously well to come out of it all without bitterness, at least none apparent to me.

Lage: Does it leave any residue in the club's dealings with him in the state of California now?

Berry: I have a high regard for Doug, and I would not think so. Others might have a different view, but I've not heard it expressed.

Executive Director Michael Fischer and a Divided Board

Lage: Now, did the experience with Doug Wheeler affect what the club looked for when it chose Michael Fischer as executive director [1987]?

Berry: Yes, the same group deposing Wheeler was there for the choice of Fischer, and the lineup was somewhat the same. There were only a couple of crossovers, maybe only one. I've forgotten exactly what the vote was, but it was close, maybe another eight to seven vote, or perhaps a nine to six.

Lage: That's a hard way to start.

Berry: Yes. Fischer was a more natural choice. He had been on the West Coast, deeply involved in conservation affairs with which the club was closely in touch. He had a good record with the Coastal Commission. Some people I heard from after the selection were quite doubtful about his ability to administrate. I had not heard those things before he was selected.

Lage: People with experience on the Coastal Commission?

Berry: No, people who knew the Sacramento scene. Well, there again, this was not an auspicious beginning, because both Shaffer and Downing were negative about him, Shaffer in particular.

Lage: Oh, about Fischer?

Berry: Yes. Shaffer was negative from the very beginning. In fact, I suspect in retrospect that Fischer would have gone sooner had it not been for Shaffer's opposition.

Lage: You'll have to explain that one.

Berry: Well, simply because the criticism came so early and was so voluble that it seemed to raise almost as much a Shaffer issue as it did a Fischer issue. For some period of time, I was fearful we'd have a repeat where somebody wasn't given an adequate opportunity. I didn't really become involved in it, but as one board member, I thought maybe we were suffering from too much effort by board people to tell staff what to do at every step.

Lage: He was hired during Larry Downing's presidency?

Berry: Yes, I think so. You'll have to correct me from the minutes; I'm not absolutely certain, but I think it's true.

Lage: Downing and then Richard Cellarius, Sue Merrow, and then yourself were president during Michael Fischer's tenure.

Berry: Right.

Lage: Okay, so I've kind of interrupted your thought there. He was besieged from the beginning by Denny Shaffer, who was treasurer.

Berry: Besieged might be a bit strong, but it was clear very early on, even in the selection process itself, that Shaffer was not happy. He even suggested when we got down to the two finalists that we go through the entire process again. Then there were a succession of incidents, most finance-related, with very heavy criticism of Fischer and/or his staff, and much of it came from Denny.

Almost any executive director is at a disadvantage with Denny, because he is extraordinarily aware of all that goes on in finance, and he's one very smart fellow, with decided points of view.

Lage: Financial points of view?

Berry: Decided points of view--well, particularly on finances, but many other things as well. He quickly perceives any weakness in that area and either seeks to correct it or be sure his own ideas prevail.

And that isn't all bad. I suppose I'm giving a slightly negative tone in stating it as I have, so let me state the positive side as well: Denny can catch as quickly as anybody, and far quicker than most, the tendency of the staff to move on what is

primarily a volunteer's decision to make. He is valuable to the club for that reason. He also errs at times in not seeing what I think are primarily the staff's decisions to be made. But if you were to judge him, I think that's one of his strong suits, being alert to the staff going awry, and the number of things he's set right exceeds the number where he's perhaps gone wrong, trying to dictate too much.

Lage: Does everybody on the board draw that line in the same place?

Berry: Not always.

Lage: So was he sort of taking matters into his own hands by stamping out the error?

Berry: Well, there are two things here. One is alertness to staff overstepping. I think we all draw that line more or less in the same place. Denny is more alert than most when there's been a violation, if you will, or an overstepping. He probably is more prone than most to critique staff's decisions.

Lage: Maybe he steps over the proper boundary of the volunteers' domain?

Berry: Well, but sometimes I think when he wants to dictate the decision--I'm criticizing him, so I want it to be a fair criticism. Often it's wanting to influence the decision. But there are times he wants to make it for them, and I think that's inappropriate. This can be a beneficial thing, but like anything, it can be overdone.

Lage: It seems like the treasurer has quite a bit of power in the club. Is that a correct perception?

Berry: Depends on the treasurer. Few are as alert as Denny to the intricacies of financial issues. Not much gets past him, and it's a benefit to have him there to see what's happening, and interpret it. Other treasurers have done as well and some get on very easily with staff.

This process affected Fischer. I can remember Mike complaining more than once; he even had a favorite metaphor for it. By this time, all the e-mail apparatus had been put together, and you didn't have to wait to telephone somebody or have them call back, just whip off a message.

Back to Fischer's metaphor: he would turn on his e-mail in the morning, and "Denny's fist would come crashing out of the screen" at him. [laughter] This was his metaphor for how Denny dealt with him.

Well, no doubt Denny was relentless. He did not like the way Fischer operated, and he--

Lage: And he didn't vote for him initially, I gather.

Berry: No. Didn't vote for anybody initially, as I recall. We don't keep minutes of that sort of thing, but I don't think he wanted either of the two finalists.

Lage: Who was the other finalist?

Berry: I'm not sure that that's something that we're allowed to reveal.

Lage: I know Fischer left on your watch, and I don't know if maybe we should leave that for when we actually get into your presidency, or we can talk about it right now.

Berry: Well, this would be an appropriate place. Part of this should not be published for years, but I'm willing to tell you the story, because it's important, and should at some point be part of the archives.

Lage: When you read it, you can see how appropriate you think it is.

Conflicts with the Sierra Club Legal Defense Fund

The Club's Financial Support for the Defense Fund

Berry: In varying degrees, other people on the board again voiced concerns about Fischer. I myself had doubts beginning with the dealings about the Sierra Club name, with the Sierra Club Legal Defense Fund.

Lage: This is all interrelated, I see.

Berry: The whole problem grew out of two separate issues which were largely unnecessary, but events made them big issues. One was the old-growth forests litigation in the Northwest, and the other was the club's financial support for the Sierra Club Legal Defense Fund. There was an agreement that didn't quite amount to a legal contract because it didn't make binding promises, at least in the view of some it didn't; in the view of the Legal Defense Fund it did. But in any event, whether you regarded it as a binding contract or not, it did in effect say the club would use its best

efforts to provide a certain level of financial support, though that level changed over time.

Lage: So that document doesn't date back to the origins of the Legal Defense Fund?

Berry: Oh, no.

Lage: That was evolved over time?

Berry: Well, it wasn't a single document, but rather was a series of gentlemen's agreements reduced to writing by Fischer's time. The club rarely lived up to the financial support goals stated, and if you know the club, you can understand why. With periodic budget crunch problems, it was simply the easiest way to balance the budget not to live up to these agreements.

Lage: Did the agreements mention amounts?

Berry: Yes. I protested this [reducing the contribution to the Legal Defense Fund] every time. I felt there was a club failure, not because I was a member then of both boards, but because, whether you regarded it as a binding contract or not, if you've given some indication of what you're going to do, it seemed to me you ought to do it.

That problem became acute along with the rise of Rick Sutherland. He had been, of course, executive director (and later renamed president) of the defense fund for quite a while, and had built it into a substantial organization. He had done a marvelously successful job in fund raising; he was a good leader, popular with his staff. He did an excellent job.

He also had expansive views for his own organization. He developed the theme that SCLDF staff were lawyers to the environment, not just to the Sierra Club. He had conflicts with McCloskey, with Wheeler, and Fischer in turn, and I was very disturbed to hear him tell me, with respect to each of them, in somewhat private conversations--though I heard these same things reported to his full board as well--that he couldn't get the truth out of these people.

I knew them all well enough to be concerned that a good friend of mine, which Rick was, made these allegations, because I also regarded the other people as friends, though perhaps not as close. So I just felt there must be some misinterpretation, but Rick regarded it as more serious than that.

The Spotted Owl and the Lawyer-Client Relationship

Berry: In the spotted owl fights, the issue wasn't just the owl. It wasn't just saving old-growth forests. The real issue was saving ecosystems, and that issue perhaps was crystal clear to some people from the beginning, and certainly was part of our rhetoric, but just what was meant by "ecosystem" was unclear. What you had to do to save an ecosystem was not clear, unless carefully defined.

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Berry: On the club volunteer and staff side, you had people working through what is an ecosystem, what must be done to save it, and what's the best strategy--in respect to the lawsuits to be filed and the legislation to push and the whole political process. On the defense fund side, you had people dealing with individual lawsuits, some of them just for the club, some for the club along with other plaintiffs, some for other plaintiffs not involving the club.

Lage: And it was an array of lawsuits on small portions of the forest?

Berry: Yes, individual logging plans or forest plans. And the people handling those lawsuits were young lawyers with strong idealism and a notion in their heads, at least some of them, that they weren't just lawyers to a client, they were lawyers to a cause. And in a couple of instances, they clearly passed over a line that shouldn't have been crossed. It ended up with open public criticism of a client they were representing, the club, because they thought the client's position was wrong.

Lage: Was this criticism of the Sierra Club?

Berry: Yes. I thought that extraordinary and clearly uncalled for. I thought it just dead wrong. The Sierra Club Legal Defense Fund board, made up of lawyers from some of the most prestigious firms you'll find anywhere, didn't see this for what it was. Here was a lawyer, in effect, attacking his client in public. You just don't do that. Had an associate in any of these prestigious firms done that, his desk would have been cleared out in a day.

Lage: Were you on the board of the Legal Defense Fund at this time?

Berry: Yes.

Lage: So I assume this was discussed in that venue.

Berry: Yes, I said I felt it inappropriate. I perhaps didn't push as hard as I should have at the time, because I thought it so inappropriate not to bear much discussion.

The notion then got into some of the Legal Defense Fund people that they were defending the environment better than the Sierra Club. In retrospect, I think the club did need some realignment of its position. This was one of those moments when you catch your breath at the switchback but still would make it to the top of the hill. It was simply a pause or delay in the development of the Sierra Club's position. The client didn't need attack in public to urge it along.

The Sierra Club Name, Rick Sutherland, Michael Fischer

Berry: Simultaneous with this, an issue arose over the use of the Sierra Club name. I'm not sure where the idea of changing the SCLDF name first arose, but the first I heard was Fischer urging that solution upon Sutherland.

Lage: A solution to the problem of the defense fund taking --

Berry: To the problem of their airing differences with us in public. I was astounded. I couldn't believe when I first heard it, and immediately told Fischer, I said, "Of all the things you might tell the defense fund, asking them to change their name is just not your decision. That's our board's to make, if it's anybody's decision to make."

Well, it happened again three or four more times over the space of a year or two.

Lage: But he saw that as the solution to the problem, rather than--

Berry: Yes. Even during our negotiation with them for a solution, he would come up with this after we told him several times that was not his decision. I must say, that gave me considerable pause. I was not at all happy about that.

Rick, meanwhile, was leading his group on, with extraordinary success in fund raising, and I think began to like the idea of being totally separate from the club. The other models that exist--NRDC [National Resources Defense Council], run by John Adams--were, I'm sure in Rick's mind, much more independent, because they made their own policy. And here he was, so long as he

wore the Sierra Club's uniform, having to play on our team, or so it appeared.

Lage: But the Legal Defense Fund was a separate organization.

Berry: They were a separate organization, but primarily serving the Sierra Club, as we viewed it. But Rick began not to think so. SCLDF literature began to indicate that. Even the way they printed the name: they used less ink on Sierra Club than they did Legal Defense Fund. I pointed out that he needed to use more ink on our portion of their name, and I asked what this meant.

We had several private conversations about all this. The year before I quit their board of trustees--what year did I quit? I guess 1990, so this must have occurred in 1989, when we went to Colorado for the board meeting of SCLDF. Shortly before that meeting, I had heard some claim about their owning the name, and I confronted him on this right before the meeting, saying, "What is this? Do you claim some ownership of the Sierra Club name?"

While I had been in a sense a founder of SCLDF, I had not been on their board from the very beginning. The club person who played that role was [former club president] Ray Sherwin. I had understood there was a signed license agreement.

Lage: Played the role of what?

Berry: The liaison [between the club and the defense fund]. I didn't go on their board until sometime later in the seventies. And Rick equivocated. In the meeting which followed I was distressed at things said about the club, and made an impassioned statement asking in effect to confirm the relationship was as I understood it, where we're at least in one family. One board member very, very close to Rick set into me for that. I was so upset I remained at the meeting only about ten minutes longer, and then just left and took a hike in the mountains. I was extraordinarily upset at what had happened.

Then at another meeting that fall, it was announced that Don Harris, who had been president from the beginning, would step down. The question was then who would assume the office of the presidency, shortly to be changed to chairman, because Rick at about that time assumed the title of president.

Lage: Did that signal a change in his duties, or his relationship with his board?

Berry: Well, it may have. I felt increasingly over the years that the organization was staff-dominated--well, dominated is too strong a

word, but certainly the relationship of volunteer control we have in the Sierra Club was lacking, because those people, while they're very dedicated and give a lot of time to the organization, do not have that impassioned day-to-day contact with their organization the Sierra Club Board of Directors do.

And so during our annual backpack trip, while both Fred Fisher--one of those who founded the defense fund along with me and Don Harris--and Mike Traynor were hiking together with me, and I--

Lage: And Don also?

Berry: No, Don was not along. It was Mike and Fred, and Fred's family. We had been doing this annual backpack trip for years. I said to them, "Look, one of you two fellows has to take on the presidency [chairmanship] to straighten all this out." Fred didn't feel it was something he wanted to do. Mike was somewhat open to the idea. I hoped one or another of them would see the situation as I did and straighten it out.

At the SCLDF fall meeting this whole subject came up, and I was asked to recuse myself so they could discuss the name, and I said, "All right, I'll be happy to do that. But I want to make a statement before I leave."

I said, "Look, legally, I don't think there's anything to this idea you own the name." And I pointed to several circumstances, one which arose when the foundation and the club were at odds at a much earlier time--in the late seventies. I had then proposed a contract everybody agreed to but nobody signed, in which it was put right out there that the foundation and SCLDF were operating under a license. I pointed also to how SCLDF was formed, and my understanding Ray Sherwin had somehow attended to this license issue.

And I said, "Regardless of all these legal circumstances, morally how can there be two organizations both with the name Sierra Club taking divergent views? Any way you look at it, that is simply immoral," and I used that term. That's how I regarded it. I felt that anyone taking any action, whether intentional or otherwise, which would lead to two organizations with divergent policies having the name Sierra Club--I felt that absolutely immoral. I was extremely exercised, though my language at that point, except for the use of that one word, was rather moderate.

I was amazed at the reaction to that. Some of the trustees I thought would be touched most deeply by that reacted in an opposite manner.

So I left that meeting. Afterward, in a private conversation with Rick I said, "Look, this is taking on serious proportions. Are you truly claiming you own the name? Because if you do, I tell you, you couldn't threaten me personally any more unless you threatened my immediate family. It's that strong an issue with me."

He said, "Look, if it comes down to push or shove, I tell you we will not do that."

So things went along. Because on both boards, I did not participate in the negotiations aimed toward straightening out this problem and the money problem.

Lage: So we had the money problem, the name problem, and the stance on ancient forests?

Berry: Well, that latter issue slowly got resolved. But it led to a desire on their part for greater freedom in lobbying that led to outright alarm in our staff, who felt that would dissipate our influence on Capitol Hill--if there were two Sierra Clubs, in effect, saying different things.

So all these problems were being negotiated and I was on the outside of it. Reports kept coming back that Fischer was saying, "Well, change your name," which did not please me at all. We're getting now back to your--

Lage: [laughs] Well, it's all of a piece. I can see that.

Berry: That caused me some considerable doubt, that he'd say it once, but particularly that he'd say it twice. I suppose to a degree my concerns were emotional. I had been associated with the development of the club, not any more deeply than many others, but deeply involved, in both organizations. So this was a very serious matter to me.

The negotiations went along to the point where in 1990, I wanted to get into it. I didn't want to have to recuse myself on both sides discussing this. So I resigned from their board, and then became involved in the Sierra Club end of the process.

Lage: Did someone else take on the liaison role?

Berry: No.

Lage: Nobody from the Sierra Club went on the board?

Berry: No. I think some wanted to, but nobody in fact did.

The thing drifted on while others negotiated and then, finally in the winter of Sue Merrow's presidency, I became concerned the thing would not get resolved.

Lage: That was '91.

Berry: So I pushed for a solution wherein we would simply tell them that what we regarded as a license, because we had in the meantime discovered the document which, though not itself a license, said they would operate under a license--

Lage: But it wasn't signed.

Berry: It was not signed.

Lage: Does that matter legally?

Berry: Well, I don't think so. They might offer a different view, but when you look back to the original club minutes authorizing SCLDF and the report upon which that was founded, to me it was rather clear. These documents were discovered in the Bancroft Library.

Lage: I interviewed Larry Moss a couple of years ago, and he recalled addressing that point at the time the fund was created.

Berry: Oh, it was. You see, at that point, there was a hiatus in my chairmanship of the Sierra Club Legal Committee while I was president of the club. I had been chairman since, I think, 1966. But in that period Fred and Don were the chairs, and they brought the document to the club which said SCLDF would be under a license, and then from that point on, Don was president and Fred was vice president [of the Sierra Club Legal Defense Fund]. Not only that, but they were our lawyers in incorporating SCLDF. No point in getting into a lot of legal terminology, but it all raises a very good argument for the Sierra Club, in my view.

In any event, the solution I proposed simply gave them a year during which the problem had to be worked out, or they would lose the name. This had at least some effect in getting them to address the problem more urgently.

Lage: But in a way, it was what Fischer had been saying. Change the name.

Berry: Well, he just said change the name, period.

Lage: You said come around or change the name.

Berry: That's right. Come around. I felt that so long as any issue remained over whether they also owned the name, that was the most divisive of all possible circumstances. Here your lawyer is taking an adverse position to you with respect to your undoubted greatest asset, your name. I remain perplexed to this day why the good legal minds on that board couldn't see with utter clarity, that it was totally intolerable. Maybe they did, but insofar as I could draw reactions from them--one was from one of my best friends who said, "Well, you know this really wasn't a problem until you agitated it." I was dumbfounded, frankly, and told him, "Look, you must be telling me the lawyer's joke of the week. This is intolerable; we can't have it."

Lage: And you weren't the only one who was objecting?

Berry: Oh, by no means. I got a unanimous vote out of the Sierra Club board to tell them, "You've got a year, and let's resolve it or you do something else." I didn't want them to change their name. That was the furthest thing from my mind. I still don't. But I also wanted a workable relationship, and it's not workable when your chief lawyer takes an adverse position with respect to your most valuable asset.

Lage: The most valuable asset being your name, right?

Berry: Right, so the thing moved along. Sue [Morrow] was head of the negotiating team but then had to leave the presidency. Everybody expected Tony [Ruckel] to take it on. Tony seemed to--

Lage: Tony was an attorney with the Sierra Club Legal Defense Fund?

Berry: Well, he had been; that's a further complication. He had gotten fired by Sutherland. This thing has twists and turns that unduly complicated the whole situation.

In any event, Tony was slated to be president [of the Sierra Club]. He seemed to announce himself in favor of draconian solutions beyond my hypothetical one. At that point, I announced for the presidency for one year and was elected without opposition. I was determined to resolve the problem within that one year.

Lage: And that was sort of your main purpose in taking on the presidency?

Berry: Yes, it was my main purpose. We negotiated and negotiated through that year, further punctuated by Fischer's suggesting again they change the name, which frankly didn't please me at all.

Lage: When you say we negotiated--

Berry: Well, we had session after session after session.

Lage: Between the two boards, or representatives?

Berry: Representatives of the two boards. I, Fischer, and sometimes [Carl] Pope, sometimes Sue Merrow, occasionally others, were the chief negotiators for the club, and a variety of people on the other side. While he was still living, certainly Rick, Dan Greenberg, who succeeded Mike Traynor as chair, a variety of other people on the other side, including of course Traynor.

Lage: Who did become chair.

Berry: Yes. He had become chair a year and a half before I became president. He became chair, I believe, in 1990. In '91, several months after I had become president again, Rick got killed [in an automobile accident]. That of course threw their whole organization into disarray, because it left a void extraordinarily hard to fill. The centrifugal tendencies came largely from Rick, and I think it caused them some hesitation about where they were headed, and also their funding began to fall off about that point, so certainly they had more than one thing to worry about.

Fischer's Final Year: Budget Crises, Staff Dissension, Definitions of Authority

Berry: Are we still on the Mike Fischer story, or are we now on the defense fund story--the two are intertwined. Let me go back to the Mike Fischer story then.

All along, during roughly the last year [of Fischer's tenure], insofar as I noticed--but insofar as other people noticed I supposed it was a longer period of time--there was friction between Mike and some of his staff people, particularly Andrea [Bonnette].

Lage: Andrea was the associate executive director for finance and administration.

Berry: Yes. She is very bright, capable, occasionally sharp-tongued, not at all afraid to express herself. Because she and Fischer did not particularly get along, even though Fischer had chosen her himself, we began seeing more of those tendencies identified at the outset of this interview: board people having close friendships with staff, sharing points of view. This of course happens naturally, but at times it can accentuate other problems.

Lage: So she had alliances on the board?

Berry: As I viewed it, she did, yes. And I think she actively pursued them. I was aware of these things in a general sense, but frankly disregarded them. I suppose I choose to disregard them, because I really don't like to get involved in all that. I noticed it was going on, but didn't think it had reached any particularly acute stage.

Though I think in the minds of other people, it had. A number of people had reached a point they wanted to get rid of Fischer. It wasn't a majority, but certainly a growing minority.

Lage: How does this fit in with Andrea?

Berry: In many ways with finances, and shortly after I became president, the budget disarray became more obvious. A tremendous shortfall faced us, as identified during the summer of '91. I was just then recovering from my burn injuries [resulting from an accident in May 1991] when we had a board retreat back in Maine, which was fairly bloody from a couple of standpoints. There were many new board members who frankly did not want all the former board members constantly telling them what to do.

Lage: You had a lot of new board members who were in their first or second year on the board.

Berry: Yes. As of that point, there was almost a majority who had only been on the board a year or less.

Lage: Four were new in 1991, two were new in 1990, and three in 1989.

Berry: Yes. And the new board people didn't quite want older members hanging around saying, "Well, you don't really know what you're doing," or things of this sort. That was one boiling pot.

The other boiling pot was the falloff in revenues, which was a brand-new problem, at least in those dimensions, nothing quite this serious had happened before.

Lage: You'd had some falloffs in the past, periodic crises.

Berry: Yes, this has happened periodically, but never quite as heavy as on this occasion. Mike Fischer had devised several means of trying to get at it which were, depending upon your point of view, either masterful or disasters. There was sharp division of thought. Andrea was very disapproving, saying that she had been warning of this all along, and Fischer had ignored her.

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Berry: The treasurer was brand new; Shaffer had been out of the treasury for more than two years, while Howard and then Fiddler were treasurer. Ann Pogue was in as treasurer--

Lage: She had been treasurer before, though?

Berry: No, that was her first year as treasurer. Fiddler had been treasurer the year before. Ann wanted to handle things her way, which you could understand. The treasurer's job is a big one, and she was quite knowledgeable. She was one of those not happy with the people off the board saying, "You're mishandling this." She was very close to Andrea and felt Andrea's grip on finances was better than Michael's.

Lage: Was the argument on how to raise more revenue or on how to cut expenses?

Berry: Both, and particularly the interplay of the two. The argument can always be raised you have to expend more here to get more there, or the opposite argument can be made. Both are made with passion.

In any event, the board settled upon certain remedies, largely confirming what Fischer had done. What Fischer had done was, in the eyes of some, equivocal and hesitating enough that it sent unnecessary alarm through the staff. Some were prepared to praise him for having equivocated and not made sudden decisions; others felt he'd equivocated too much and hadn't made any proper decisions. So that got argued both ways.

We got through the summer and the budget cycle ending in December. But it was increasingly obvious through this time that Andrea and Michael didn't get along particularly well. I still frankly did not regard it as all that big a problem, and believed we would just see things through. We had come to decisions which seemed fairly reasonable to handle the budget problems, and I didn't have any heavy criticism of either of them for their handling of things. I thought, well, they had some differences, and these are tough times. That's when people tend to bicker a bit, so I didn't regard it that seriously.

Then in early December, Fischer called me one morning and said, "I'm going to fire Andrea tomorrow." I said, "You're what?" "Yeah, I'm going to fire her tomorrow. I decided she's not the right person."

I said, "Well, Michael, sometimes people reach decisions maybe they ought to reflect on. Sometimes people don't get along, and each wish the other person wasn't there. Why don't you think about

this a while, and please don't do anything until you talk to me again. See if you can work it out."

He said, "Well, yes, I'll try that--" It's obvious, in retrospect, he was looking for my approval, but I hadn't seen the necessity. This degree of conflict was brand new to me. I would not give approval anyway without the board being consulted. But I knew enough at that point to believe if the board were consulted, there would be open warfare. We would repeat the situation with Wheeler, and I wanted to avoid that.

So I said, "Michael, work along with this, and see how it goes."

Lage: Did you discuss the reasons, what you just mentioned?

Berry: I asked in general. He said, "She's insubordinant," and I had seen some of that, and thought he disliked her occasionally sharp tongue, which she used on me too on occasion. But I wasn't unduly exercised about it. Besides, it was done in what passes for jest in the Sierra Club, so I wasn't really upset.

I thought I had resolved the problem, at least for that moment, at the level it should be resolved, without getting the board involved. If he were serious about it, then clearly it had to go to the board.

He asked me to talk with Pope, so I was then alerted that possibly there was a more serious problem.

Lage: How does this mean a serious problem?

Berry: Well, when the executive director wants to get rid of a powerful and able finance director, and you've got financial problems, that's a serious problem.

Lage: I thought you meant bringing Carl Pope in on it alerted you to its seriousness.

Berry: He said, "Talk to Pope." So I laid aside my plans for the day, and without specifically saying to Carl what I wanted to talk about, went with him to lunch, and just waited to see if it would develop. In a very short conversation he said, "You know, she really does have to go. You can't have both those people in here, and she's got to go."

So I put that in my pipe and smoked it a while, and things didn't develop further until the great issue of Ed's [Wayburn] office arose.

Lage: Ed's office?

Berry: Ed's office. Ed has an office in the Sierra Club. He deserves one. I'm probably not going to report some of this accurately, because I never quite could figure out exactly what the issue was. As I recall, either they wanted Ed to move or Ed wanted to move. In any event, Ed wanted one of the upstairs corner offices, not the office where he was because somehow the configuration made it less commodious for his aide.

Fischer didn't want Wayburn at his end of the building on the same floor. It was okay at the other end of the building on the same floor, or somewhere in between, but he did not want Wayburn underfoot. He didn't use that phrase ever that I heard, but that was certainly the gist of it.

And as Andrea reported to me later, Mike put the problem all in her lap. I heard it from Ann Pogue, who called me saying, "I think the finance director's about to be fired." I said, "Why do you think that?" "Well, that's what she thinks."

So again, I dropped everything and went over to the club office unannounced, hoping to find both Fischer and Andrea to talk to the two together or to one and then the other.

Fischer was not there, Andrea was. I began talking with her about how the club was going in general and didn't get to Ed's office for a while, and then found the office issue connected to this fear she was about to be fired. Then she began to speak freely. As she viewed it, she had been told to find a new office for Ed, but the conditions imposed made it impossible to do so. When she protested this and other things, Michael was short with her and I believe she said ordered her out of his office.

I'm not purposely vague about the details; it's just the details are not what struck me as important at that moment. What struck me was the two were so utterly at odds--she thought him a political "hack," an "incompetent." She was as strong in her view as he had announced himself in his.

Lage: I still don't quite get the connection with Ed's office--Fischer gave her a very politically difficult task, is that it?

Berry: Well, she viewed it not only as a political task, not only difficult, but impossible. This was clearly just a precipitating event, but of historic importance, I suppose, if you're interested in the history of Mike Fischer's leaving, because it was the event that got the board clearly involved.

I said to Andrea, "Look, I want a chance to talk with Fischer and with you again perhaps, but certainly with the board." I went first to the excom [the Executive Committee of the Sierra Club Board of Directors] for a meeting about all of this. And connected to that, I as a precaution said to Fischer, "Please do not take any action." In fact, it was a direct order, phrased as a "please," but clearly a direct order. "Do not fire her without consulting the excom." I didn't say, "You can't fire her," because we had all along maintained the board shouldn't interfere to the extent of determining whom the executive director hires and fires. But at that moment, I felt, in the throes of all of these financial crises still being worked through, this was not the moment to do this if you could avoid it. Which essentially had been the position I'd taken in December, when I regarded the thing as less hot, though hot enough.

The excom confirmed that order, and there was a minute made by secretary Tony Ruckel to that effect. The thing rocked along, by my recollection, for a couple of weeks, and then suddenly she was fired. I heard about this while, I believe, in trial just down the street in San Francisco Superior Court. I came up to the office after court, and Ed Wayburn--who for whatever reason, I suppose perhaps including disappointment about his office, was exercised about Andrea--was there. Fischer was there.

I said, "You fired her?" And he said, "Yes, I have the authority." I said, "But the excom told you to consult with it first."

He said he didn't understand it that way. The subject excom meeting had occurred as I had left the hospital for plastic surgery on my hand. All the excom had been there. My order had been confirmed.

Fischer explained later, after the firing, that as he had left that excom meeting, he had said to Wayburn, "That means I have the authority, doesn't it?" And Wayburn said yes; Ed confirmed that such a conversation had occurred. My question to Fischer then was, though he had the authority, if he wanted to confirm the immediate right to use it, would be more to the point to confirm that with the president rather than the vice president, or better yet, the whole excom, particularly when Wayburn was the one excom member known to have some severe doubts about Andrea.

In any event, when I called this to Fischer's attention after the firing, he said he thought it sufficient to confirm only with Wayburn. I was not pleased with that answer and I told him so. I felt it was quite clear, and the other members of the excom, except possibly Wayburn, thought likewise.

Lage: Now, you started all this by bringing the Sierra Club Legal Defense story up, which leads me--if I had to draw a conclusion--to say that that had a lot to do with your thinking about Fischer. Is that why we got into it from this direction?

Berry: Well, it was the initiation of my own doubts. My role on the board has been the usual one, trying to pay attention to everything. But I obviously pay particular attention to the conservation law program. I feel very responsible for it from when it developed straight on through, and I've tried to provide guidance all the way through. It means a great deal to me. I've devoted a huge part of my life to developing it, developing SCLDF, keeping the good relations between the two organizations, insofar as I could. This was striking close to home for me.

And I also thought that there had been a rather gross violation of the "what the staff does/what the volunteers do" distinction. What confounded me was that it wasn't just once; it was repeated several times after I had told him. I had raised at private sessions of the board that I felt it inappropriate for him to decide for a name change, and the board had confirmed me.

Lage: And it was a delicate situation between the two groups, the series of negotiations that--

Berry: If our executive director says something like that, it is assumed on the other side to have been something we've discussed and we want. I remember Rick coming back to me more than once saying, "But your executive director said." And I would say, "Well, you know how occasionally there are spasms within the Sierra Club; treat this as one. That's not what we mean. You'll hear it from me or the president if that's where we're headed. And that isn't where we're headed."

The defense fund raised an argument I thought overwrought. They spoke as if the Sierra Club were chaotic, too changeable, and really more than they wanted to handle. Well, there's some small truth in the allegation of chaos. If you want to be funny about it, certainly I in a joking way have referred to such a thing. But only in a joking way; I don't really believe that. The tiny grain of truth in it got blown out of proportion, at least by some of the defense fund representatives. Whether this was just rhetoric I don't know.

But they, I think building on the failure of the club to follow through on what they viewed as promises about the money, thought us a somewhat unreliable dance partner. I think that was overdone, because things can be thrown back at them if you wish. Certainly in the negotiations, the charge of changeableness, if it

applied to anybody, would with more justice be applied to their side, because they would agree in principle to certain things, and then disagree with those same principles. That was one of the problems in the working through of our proposed agreements with them.

Lage: I think we should end tonight, since it's getting late, but I don't think we've completed the defense fund business. Maybe we can pick up and talk more about the negotiations and what's happened since your presidency.

Berry: I will if you want. It's a painful subject--

Lage: I know, I know.

Berry: At least to me, it is.

Lage: It's especially painful to you, but that's why you're a good one to tell it, probably. It's very meaningful.

Berry: Well, all right. We can pick up on that some other time. It wouldn't take too long; it would take about ten minutes to give you an overview of those--.

Lage: Okay, good.

The Aborted Contract with McDonald's: Protecting the Club Name

[Interview 2: June 9, 1993] ##

Berry: Another factor which gave me doubt [about Michael Fischer] was the aborted contract with McDonald's [the fast-food corporation]. I've never gotten all the exact details of it, but as proposed it hitched our name to theirs in a joint project, and for that we would receive some money, and they obviously received the benefit of public appearances, which linked our name with theirs.¹ The board thought that this had not yet been approved. I was not on the board at the time. When I heard Michael had declared it a "done deal," I asked for a copy of the contract. The "contract" was not binding; we could not have been held to it, nor do I think could they.

¹The proposed project in 1989 involved the production of an environmental education booklet for youth to be jointly sponsored by the Sierra Club and McDonald's. --Ed.

But more serious, this was done by staff without board approval. I thought it a momentous step and so fought very hard against it. Michele did a great deal of background digging into McDonald's and its environmental problems, principally related to plastic packaging, but other areas as well. I concluded the so-called contract was not binding, and should not have been presented to the board as a *fait accompli*.

Lage: I see. So the whole package was developed without consultation with the board? The design of the project?

Berry: Oh, I think there was some knowledge, but not full consultation.

Lage: Wasn't there a committee to deal with corporate sponsorship, or did the committee come out of this incident?

Berry: Over the years, there were a variety of committees, but one event that impelled us forward was this McDonald's contract. Because it became obvious we needed a regular process for approval of large donations from corporations, in particular for instances where our name would be linked more closely than just through the receipt of money.

Lage: This is a subject in itself, aside from the link to Michael Fischer, so I'm glad you brought it up. I know one of your concerns has been keeping the name of the Sierra Club--

Berry: Yes, I've always had a very deep concern about the name of the club, keeping it free of joinder with other names that might diminish it, keeping the legal right to it, keeping the image clean so it stands for the right things. And that's a continual battle. People will attempt to borrow our power, attempt to get us to join with others either by offering something that seems at the moment attractive, or by joining in projects with us, and it has to be watched very carefully, because it's so easy to dilute our influence.

Lage: Are other members of the board as concerned about it? Or are there any members of the board that just think you're overreacting and you don't need to worry about that so much?

Berry: Probably some board members believe I overreact on this issue. Not the protection of the legal name; I think they generally understand that, though there are instances in the past where they totally did not understand it, and I would be a lone voice on the subject.

They are not generally as concerned as I am about linking our name with others. I'm much more cautious about coalitions, and

particularly business deals, where our name gets linked with commercial ventures.

Lage: Were you concerned about things like the catalogue and the various--

Berry: Yes, I was. Not as deeply, because there for the most part only our name was used. But I felt that ventures into commercialism blurred the distinction of what we were. Audubon does that and it's appropriate, because it's not as much in the forefront as we are. But I don't think even to this day it's something the club should ever get very deep into.

Lage: The National Wildlife Federation does it a great deal.

Berry: Yes, and I think again it's appropriate for them. But they are not--

Lage: But it does change your perception of the organization.

Berry: That's right. Well, there's almost something I call silver tea-service conservation about it. I don't think that's the club. [laughs] I think of us more as warriors.

Lage: When we talk about fund raising in general, the centennial campaign [the major-gifts fund-raising effort associated with the Sierra Club's centennial celebration in 1992], doesn't this issue come up a great deal?

Berry: It's come up a number of times. It's been raised very forcefully by some, particularly Dave Brower, concerned that the centennial campaign was what he called a bricks and mortar campaign, where we would raise money for hard physical assets, such as a building, and this would again diminish us. And I share some of those concerns.

As it's actually worked out, I think we have not gone the bricks and mortar route. But there still is a danger, because if you're raising substantial amounts of soft money, you, of course, then have to find a soft money expenditure. So your program grows in that direction and not necessarily in the direction you want. Many times soft money can supplement, can complement, what you do with your hard money and your hard work. But not always. So that takes some watching.

Lage: Or if you fundraise for attractive issues, you're letting that set your priorities.

Berry: That's right. Yes. Fortunately, one of the best ways of raising money is through the legal program. That does not have so many of

those problems. You can raise money for a particular suit, a specific focus, but by and large, fund raising for environmental litigation is done by advertising the general results, what you've done over a course of time or a wide spectrum of environmental issues. And so the soft money you get from that lacks the dilution effect.

More on the Difficulties Between the Club and the Defense Fund

Lage: That moves us back to the defense fund. Did both the club and the defense fund conduct fund raising for legal programs before the final difficulty--

Berry: Yes. Well, they're not final difficulties--at least, I hope not. I'm trying to see that they're not. I hope to have many more exchanges with them, even difficulties, but at all events, a continued relationship.

Yes, they raised money. In fact, that was part of the problem in two different ways. They became enormously good at it. They raised a budget that was a quarter of ours and caused some people to say, "Well, if so much money is donated for conservation, would we necessarily spend a quarter of it on a legal program?" And some doubted we would.

Lage: But they were raising that independently, I gather.

Berry: They were and they weren't. That's again part of the issue, because SCLDF uses the Sierra Club name, and therefore draws in donors with allegiance first to the club name and secondarily to the legal effort. Once those donors became their donors, they became part of their organization in a way, not leaving our organization, but--

Lage: Competing for funds.

Berry: --inviting competition. And so that was a concern.

Lage: And they raised a quarter of the Sierra Club's total budget?

Berry: As of a couple of years ago, their budget was \$10 million and ours was \$40 million. This was a focus of those who thought if we had a choice without having to confer, without having to consider the institutional arrangements and the fact of the separate corporation, would we devote a quarter of all we've brought in--well, I guess a fifth, if you count ten plus forty--would we

devote a quarter to the legal program? And some people said no. They probably still would say no.

Lage: What do you think about that balance?

Berry: The legal program cannot in the end save a whole lot permanently. Only legislation can do that. But the legal program can stave off a defeat, or provide a temporary victory. And that sometimes makes the difference. It frequently makes the difference in preservation of lands which then through some other route you finally get set aside. It certainly makes the difference in preservation of species. And so the legal program is complementary to the rest of the club's efforts, and it's highly popular with our volunteers. They can dream up more lawsuits than we could ever possibly take on. We do take on a great many, and certainly all those viable ones there's any great enthusiasm for.

I think when you ask that question, you probably run into my bias.

Lage: Well, I know, I expect that.

Berry: I've been associated with the legal program. I think it's well run, in the main, and accomplished some good things, so yes of course I'm going to agree.

My hesitation, if any, is simply that I recognize there's a legitimate issue to be addressed, but it can't be addressed very clearly because they're two separate organizations--and all the history.

Lage: I know that the people very involved in the legislative lobbying, like Brock Evans and Doug Scott, caution that the legal program can lead to problems with their work, and that a strong legal challenge can lead to unhappy legislation to correct a court decision.

Berry: There are many ways to trip over your own feet in this whole process. One of them I alluded to, and that is if the other corporation, in this instance the defense fund, is extraordinarily successful, it may bring out centrifugal tendencies, which I think occurred with Sutherland, a cause of some separatism. The dispute over the spotted owl and ancient forest cases in part grew from the club's being a little unsure of its own objectives, and the attorneys from the defense fund being quite sure about theirs.

This led to differences of opinion over how the whole course of the litigation should go, how individual cases should be fought, et cetera. So there's more than one way these problems can develop.

Lage: As I understood it, some of the objection to the defense fund's strong stances was that we'd get a backlash on legislation about the ancient forests, that they were ahead of the general feeling of the public.

Berry: That was part of it, though I think that's something of a misnomer. If you make any attempt, whether through the law or not, to protect something and produce a reaction from your enemies, then you just live with that. Either that or renounce your principles. So I think to follow that reasoning through essentially does not lead anywhere. At least it doesn't explain the controversy to me.

It's much easier to me to explain it on the basis that here are our attorneys, who after all were serving a client, mouthing off about the client in public, which I felt was plainly wrong. I don't think any lawyer objectively looking at that would approve of it. Though they came back and said, "Well, there's something different about public interest law." In other words, they were not bound by the same ethical constraints other lawyers are because it is a public issue and because of their devotion to public law. I suppose they could make that argument; I don't believe it. I believe in the end, it's pernicious.

Lage: Do I remember correctly that you and maybe Mike McCloskey were critical of the club's stance, though, on the ancient forest, or its initial stance, that you thought it was too conservative?

Berry: I had some doubts. Inasmuch as I was on both boards, I didn't speak out a whole lot on this. Though I did privately say from time to time I felt we had a typical Sierra Club flap on our hands. A typical Sierra Club flap in my view has one side substantively correct and the other side procedurally correct, so they're both right. They're right about different things.

And that's what this was, essentially. They were probably righter than the club on the overall conservation issue. They were wrong as hell on the procedural.

Lage: That's an interesting insight, though.

Berry: A lawyer doesn't criticize his client in public; I mean, that's just silly. Anybody who argues he should I think is dead wrong.

On-Going Process to Define the Club/Fund Relationship

- Lage: Let's talk a little more about the mediation process between the defense fund and the club, because I think we kind of skimmed over it--the final year, your year as president. Wasn't there an ongoing attempt with David Pesonen¹ as the mediator?
- Berry: Oh, it was ongoing and ongoing and ongoing. You gave me only one ongoing.
- Lage: [laughs] Okay, set me straight.
- Berry: You could use ten [ongoings] to describe the process better than one. It went on forever. We had session after session. Finally it was agreed, after working through each part of a proposed contract as individual pieces of the whole, that we were in a position to put it all in writing. I authored--
- Lage: You were trying to define the relationship?
- Berry: Yes, and who owned the name. We, the club, had no doubt about that. Define under what circumstances they would use the name, under what circumstances they would lobby; there were many whys and wherefores to that part of it. Define how we would help support them.
- And after this whole thing was constructed piece by piece, I wrote it out, taking an enormous amount of time to do so--
- Lage: Now, was it constructed jointly?
- Berry: Well, someone had to finally put it all together, which I did.
- Lage: But it led out of discussion.
- Berry: And then we had a session about that draft, and then a rewrite. And then the rewrite was rewritten. And then it went to their board, and their board rejected it.
- Lage: Who were the people working out the agreement?
- Berry: In what sense? The negotiators on our side were myself, Pope, and Fischer for the most part, nominally Sue Merrow was part of that. She participated for some short periods of time in a couple of

¹ David E. Pesonen, "Attorney and Activist for the Environment, 1962-1992: Opposing Nuclear Power at Bodega Bay and Point Arena, Managing California Forests and East Bay Regional Parks," Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1996.

sessions by conference call, but that was essentially not workable. For the most part, it was Fischer and Pope and myself, with frequent reporting back to the board by letter, telephone conference calls, what have you, and meetings. Many, many meetings.

On their side, it was essentially Traynor, who then became, instead of chairman of the board, president, replacing Sutherland. At that point, [Daniel B.] Greenberg became chair.

Lage: He was on the joint committee?

Berry: Yes. Bill Curtis played a significant part, Buck Parker. And essentially that was the group. Sometimes a few additions, at times some of those were not there.

Lage: So the things that their negotiators more or less bought into, their board rejected.

Berry: Well, part of the problem in the process was their ambivalence. It became a popular myth on their board over a period of years that the Sierra Club was volatile and changeable, couldn't make up its mind, was feisty and difficult, and didn't negotiate in a straight line to a clear objective. That's not how I would describe the negotiations engaged in for about three years. With all due respect for them, and I like them all a great deal and still have a great fondness for SCLDF, they are the ones who kept changing their minds.

Lage: They weren't sure about where they wanted to go.

Berry: That's right, and I'm not certain that even to this day they are. They announced two years ago, deep into this process, that they would change their name. I'm not certain they're going to do that. I hope they don't. That's why it annoyed me so much when our own director seemed to be encouraging this. If they were not certain on whether to change the name, why encourage it?

Lage: But if they don't change their name, is there now something hammered out that will limit their lobbying?

Berry: It's essentially all hammered out, but not absolutely final. I expect it to be final within a matter of weeks.

Lage: So this is still ongoing. The story hasn't finished.¹

¹On August 1, 1997, the Sierra Club Legal Defense Fund changed its name to Earth Justice Legal Defense Fund. See Appendix B for announcements to Defense Fund supporters and Sierra Club leaders.

Berry: It may outlast me.

Lage: If the defense fund doesn't change its name, what will happen?

Berry: Well, I don't really know, but it's easy to guess there will be some drifting apart of the organizations.

Lage: But will there be constraints on them? Do you have some kind of legal ability to require--?

Berry: Well, that's what's being agreed to now; they renounce any claim to the name; they will be given a license for a defined period of time, renegotiable, of course, at the end of that.

Lage: A license to use the name.

Berry: Yes.

Lage: And will that place constraints on their operation?

Berry: There will be constraints on how and when they can lobby, nothing too onerous, but reasonable from our standpoint and theirs. Many of the lawyers who have been there a long time never wanted a change of name or relationship.

Lage: Lawyers on staff?

Berry: Lawyers on the staff. And I believe that, ultimately, it's not going to happen.

Lage: Are most of their board members long term? Are there people who have been around a long time?

Berry: Some trustees have been there since the very beginning.

Lage: And do they take a different stance from the newcomers?

Berry: I don't really know, because you see, I've not been part of their inside discussion for well over three years now. I get some inkling of what's going on, because of my friendship with Fred Fisher, but he does not communicate a whole lot with me--for good reasons--every thought that has passed between and amongst their trustees. Mostly my reading of signs is not from Fred; it's from other sources. I think there is a group on that board who would just as soon have things settle back to where they were.

In many ways, the centrifugal tendency came from Rick. After all, he was riding the crest of enormous development of SCLDF, for which he could justly take credit. He had become a superb

fundraiser. He was on the incoming tide of rising expectations in the environmental movement. He was on the rising tide of giving. But right about the time of his death the tide started to turn the other way. So--

Lage: They lost him and--

Berry: They lost him, they lost the tide, they suffered, as we all did, from the recession. There was a lot to turn them back toward the club in all that. So long as we maintain goodwill, I think that will happen. The problem was these boards are constructed quite differently. The defense fund board has a number of utterly brilliant lawyers, devoted to public service, very generous with their time and money, but not the trench people the Sierra Club tends to elect. And theirs is a non-elected board.

We elect people in a fiercely democratic process who really put in the time or they don't even get nominated. And so there's a different sort of a dynamic. If you wanted to judge their board, sort of person for person, you'd have to come off saying there's probably more accomplishment there in commerce and business, in the things that are ordinarily taken for success, than there is amongst the Sierra Club people.

Sierra Club people tend to be from other walks of life. Their board is people used to being listened to, used to being successful, and not used to being told what to do. The Sierra Club board's perspective is they have a war to fight with somebody, preferably a polluter or somebody wrecking the place. So they come at things a bit more combatively, just by nature.

But also, the Sierra Club is the mother, isn't it? I mean, isn't this just the child?

Lage: Right, the upstart child.

Berry: And errant children should do what their parents say. There's some of that attitude I must say at times in my own thinking too, though I try to avoid it.

Lage: [laughs] I would think it would be the largest danger for you, since you had something to do with founding the organization.

Berry: Well, I truly think I understand both sides of this thing as well as anyone can, because I was on both boards for so long, and have devotion to both organizations. I understand lawyers, I think; I know many of their people personally and well. I don't think the Sierra Club has played its hand perfectly, as I mentioned. I

thought we, on the money end of it, didn't do what we said we were going to do. And this is a legitimate concern.

Lage: Maybe when they saw the Legal Defense Fund raising \$10 million on their own--

Berry: I think that was it. At least silently or subjectively, it was. We would have periodic shortfalls in the Sierra Club budget, arguing about cutting \$5,000 here and \$10,000 there, and here's all in one lump sum this half million we've promised them--not to give it out of our club pocket, but to help them raise it. It was just too tempting to divert those fund-raising sources back to the club itself. Not proper, but certainly very tempting.

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Before I got involved in negotiations--there was a time for a year after I quit their board when I was not involved in negotiations at all--I just simply listened to the reports of what was being done. I came back to it somewhat out of a sense we ought to be making more progress, because it sounded like they weren't talking to each other. Of course, they were talking to each other, in a sense; they were making some progress, but it was a ships-in-the-night sort of a problem. And I hoped to finally bring it around to where it should have been. I must say, it's taken a great deal longer, many, many more--not just hours or days--but whole weeks and months more of my time than I expected. If the end result is good, it's all worth it.

The Sierra Club's Litigation Program: Approving Chapter Lawsuits

Lage: I remember reading that the club might develop its own litigation program--

Berry: It's had one all along.

Lage: But how active has it been? And has it become more active?

Berry: It depends on how you measure activity. More than half of our lawsuits are now not handled by the defense fund.

Lage: Has that been something that's occurred in the last few years, or simply--

Berry: It's grown gradually over a period of ten to fifteen years.

Lage: Now, why is that?

Berry: There are only so many lawyers on the defense fund staff. Volunteer lawyers will take a case for free, or at reduced charge. They'll somehow fill the gap, and these people are used sometimes just once, only sometimes repeatedly. Depends upon the lawyer and the time and--

Lage: Used by the club?

Berry: Yes. A lot of our litigation is handled that way. Also, the individual chapters have grown cautious at looking to national for funding of all their individual suits, realizing it's difficult for a local suit to gain the full attention of national leaders, for obvious reasons; it's easier to raise money for it locally. So chapters' legal funds popped up all over.

Lage: Is there any control from the national club, or are these separate institutions?

Berry: Chapters are not separate institutions, but are entitled to use their own money for what they choose. And so when they raise the money they can commit the funds to a particular lawsuit they want.

Lage: So then that lawsuit is not approved by the executive committee of the national club?

Berry: Oh no, all lawsuits still have to be approved by first, the litigation committee, which is five of us, and then ratified by the excom. It used to be direct approval by the excom, but when I was president, I instituted something I had wanted for some time, the interposition of a group of knowledgeable lawyers to take the first look and make the approval, followed by ratification from the excom. That process has worked extraordinarily well.

Lage: Now, you did that during your last presidency, just recently?

Berry: Yes, it was two years ago this September.

Lage: Because it always seemed that when you read excom minutes, there's never discussion about legal cases. They're just listed, and they're approved.

Berry: Because it's all done in writing--a thorough confidential documentation of any suit approved. In a very few instances we approve based on oral information.

Lage: Now in the past, before you instituted this new procedure, did the excom itself really examine them carefully?

Berry: Examine the documentation? Yes. And took advice from the legal committee. But now, a subset of the legal committee called the litigation committee has the real decisive power, five people, all knowledgeable, and industrious.

Lage: What do they consider?

Berry: They consider a document termed a "new matter form," which gives a great deal of information, including the facts, the attorneys, the legal theories--it's generally four of five pages, all in a stylized format for each piece of information, including, "is the funding in place?", such questions as this.

Lage: Do you consider, "can the case be won?", or do you consider, "how does this fit into our legislative program?" What kind of things--

Berry: All those things are considered. We don't necessarily take on cases only because they can be won; in fact, we take on cases where the expectations are more likely than not you'd lose it. We don't take on cases we know for certain will be lost because totally lacking in merit, we don't do that. But we will take on some cases regarded as chancy.

Lage: For what reasons now would you take them up?

Berry: They may test a new legal theory. One of the very first lawsuits we ever filed was the East Meadow case in Colorado. Tony Ruckel and another fellow, who eventually became a trustee of the Legal Defense Fund, dreamed up a theory I thought had a one-out-of-ten chance. I said, "Well, if you really want to do it, it's not unreasonable to take a one-out-of-ten chance."

That case led to a decision which has saved more wilderness probably than any other single precedent, so it was really worthwhile.

Lage: What was the precedent?

Berry: It enforced the Wilderness Act provisions in ways not seen before. So it was legally very important and taken as a test case.

Lage: Was Tony Ruckel doing this through the defense fund then?

Berry: I think he was at that point a part-time lawyer for the defense fund. He of course could tell you. I'm not certain exactly when he went full time, either right about that point, or shortly thereafter.

- Lage: What percentage of cases that come before the legal committee, the litigation subcommittee, get turned down, would you say?
- Berry: A small proportion, because we have set guidelines in advance which bring a set of cases that meet sensible criteria.
- Lage: Were the guidelines set over the years?
- Berry: Written guidelines we update every couple of years.
- Lage: And so the chapters are privy to those?
- Berry: Oh, yes. They're sent out yearly, because people have to be kept informed. There's always new leadership around. Some chapters are quite savvy about the whole process; others not. Occasionally, a case is filed without our approval which leads to some considerable difficulties, because then we have to backtrack, either ratify the filing or disown it. Recently, we had to disown one.
- Lage: Can you tell me about that?
- Berry: It was in Rhode Island, a suit filed in the name of the Rhode Island group, because Rhode Island will not be a chapter, I don't think, until a couple of weeks from now. It was then a group of the New England Chapter. Its name was joined to a lawsuit apparently without the understanding of the group leadership because of a mistake in dealings with the lawyer, and I think the mistake was on the lawyer's side.
- Lage: Where he just attached their name?
- Berry: Attached their name, yes, improperly and against all our written procedures.
- Lage: So did you dissociate yourself on the merits of the case, or on the procedure?
- Berry: By the time we learned of it, the court had determined there was no merit in the case. [laughter] The other side was seeking to impose sanctions against the people who brought the suit.
- Lage: Oh, I see, so it was important to dissociate--
- Berry: At the point it came to my attention, I said, "Look, we never approved the suit."
- Lage: Is that going to be controversial, or do you have--I would think your procedures would protect you?

Berry: Well, they should, because they're announced. Not in secret; they're out there, in the hands of all the chapter leadership. Occasionally you hear about a suit at the last minute. "Oh, maybe we'd better tell you about this," and we say, "No, the process involves a great deal more than that. You should ask us first." Otherwise, you don't have proper central control of the legal theory or other things to make a quality program. We don't want the inexperienced or inept filing lawsuits on our behalf; that's a real way to danger.

Some of the chapters are very sophisticated. The Rocky Mountain Chapter has its own revolving fund of some \$25,000 for conservation suits. It doesn't want to depend upon national. I've done that myself. Michele and I decided some time ago that the money we give the club will be--we invented a word for it-- "Wayburnized." Ed Wayburn's money and that from his in-laws, is "Wayburnized," given for highly specific purposes to be determined by Ed himself. It isn't just given to the club.

Lage: So if you want to ask the general question how do you get the club to accomplish what you want it to accomplish, that's one way?

Berry: That depends on your point of view. If you know what you want to accomplish, then you "Wayburnize," as Michele and I do. Money is earmarked to a particular fund over which we have the control, not to take it back, but to see it's spent for particular purposes.

Lage: And is it limited to litigation?

Berry: No, but to things of deep interest to us, the international program; this county and the county where we have our ranch. There's been conservation litigation in both those counties we wanted to support; and some of the money has gone to save tigers, which is my passion.

Lage: Tigers? I didn't know that was one of your passions.

Berry: Oh, it is.

Lage: Any particular tigers, or just tigers?

Berry: Any tigers. I'm very keen about tigers.

Lage: How did you develop your interest in tigers?

Berry: I just admire the animal for what he is. Nobody bosses around a tiger. They're a beautiful animal. I've used the tiger as a metaphor in upbringing my own children. I told Matthew in practical effect morality plays based on the tiger since he was

two. We called them "tiger stories." There are a number of moral points developed through the stories which might be more difficult to get across another way. It involves a daddy tiger, a little tiger, and a mommy tiger. They have all sorts of adventures, always with a moral point involved.

But I'm just keen on tigers, they're just a wonderful symbol.

SLAPP and SLAPP-Back Suits

Lage: I ran across references to SLAPP and SLAPP-back. Tell me about that. You've been involved litigating these suits?

Berry: SLAPP is an acronym coined by a professor of law at University of Denver, George Pring, known as Rock Pring.

Lage: And he's in Sierra Club?

Berry: He was once on the board [1973-1975]. SLAPP, Strategic Lawsuit Against Public Participation. It's a suit brought on any of a variety of theories with the purpose to scare people participating in the public process to withdraw and dampen their opposition. Pring has written numerous law review articles and lectured on this subject quite widely, he and Penelope Canaan, his sociologist co-author. A SLAPP-back is simply a lawsuit filed to retaliate once you win the SLAPP suit.

Lage: Against those who brought it?

Berry: Yes. It's what lawyers usually call a malicious prosecution lawsuit. I've handled a number of SLAPP suits, fifteen or so.

Lage: As a defender against--

Berry: As a defender, and I've filed a number of SLAPP-back suits.

Lage: And how do they go? Is there a trend in the way that they're treated, or does each one have its own--?

Berry: That, of course, depends heavily upon the individual circumstances. I filed one against some local lawyers and the Blackhawk Corporation, oh, a good fifteen years ago. I can't tell you for how much it was settled, but they did pay. I filed one for some conservationists in Livermore, again against a developer, and their lawyer--

Lage: And the developer had done something to keep people from getting involved?

Berry: Well, in the first instance, they had filed a trumped-up libel suit against a couple of environmentalists. In the second instance, they had done a similar thing.

Lage: That must make your blood boil.

Berry: If you get back at them, your blood doesn't boil quite so much. Both of those suits were settled. There is another big one about to be announced in the Sierra Club magazine which I handled for the club. Perini Corporation sued the club, Carl Pope, and three other people. Perini Corporation, a very large corporation developing a huge tract in Squaw Valley, entered into a settlement with the club and then accused the club some time later of alleged fraud in the inducement to the settlement agreement. It was all simply made up by their lawyer, who then himself became a defendant when we filed the SLAPP-back suit.

Lage: Are those difficult things to prove, their own malicious intent?

Berry: Depends upon the facts of the case. They claimed it was difficult, but ended up paying \$2.5 million to five plaintiffs, including the club. The second biggest payment out of that was to the club.

Lage: Were the others to individuals?

Berry: Individuals, yes, including Carl.

Lage: Now would he get defended by the club on this reason?

Berry: When he was sued, I defended him pro bono. And then the club was later brought into the same suit. By that time, I had expended some \$30,000 in defending Carl, and because it was so expensive, the club agreed to take over my fees from that point on. Then when we SLAPPED-back, the club got back what it paid me plus substantially more. Carl paid me for the time I'd put in free for him, and then he also got a recovery.

Lage: But is he protected in any way? I mean, you defended him pro bono.

Berry: Yes.

Lage: What if you hadn't been around? Would the club have paid to defend him?

Berry: He wasn't sued at that point as a club officer. Oh, I probably would have defended him anyhow. I felt it was a very unjust lawsuit.

Lage: So it was something he hadn't done as--

Berry: Oh, he hadn't done anything wrong. He was pure as the driven snow in the whole matter.

Lage: I didn't mean wrong, but whatever action they were objecting to, you say he hadn't done it as an employee of the club.

Berry: He hadn't done it as a club employee, and he hadn't done it, period.

Lage: [laughing] Okay. Are there other suits or particular trends in the law relating to environmentalism that we ought to talk about?

Berry: There's always something new, testing new theories. It has become popular to file these SLAPP suits. The state of California just last year enacted a new statute which I played some part in formulating, and in favor of which I testified, to present some procedural hurdles to the filing of SLAPP suits. But with the rise of the wise-use movement, everything has gotten a great deal more contentious.

Lage: Are they using the courts to get their particular aims?

Berry: It depends upon how you define the wise-use movement. If it's things like the American Land Alliance and its attorney, yes they have for quite some time. That attorney filed the second of those SLAPP suits I mentioned. And again, I can't tell you how much they paid, but I hope he learned a lesson from it.

You see, part of the problem is defining what the wise-use movement is. I believe it's just the latest name given to a thing with earlier incarnations--Sagebrush Rebellion, American Land Alliance, what have you. It's been a series of things popped up like mushrooms, all espousing essentially an anti-environmentalist point of view. They would say they're fighting for their jobs or their property rights, but essentially I think it is--

Lage: And they probably wouldn't say that their suits are unfounded, or would they? Just put in as roadblocks.

Berry: Well, when they pay money [in settling the suit], I think that's essentially what they are acknowledging.

Lage: Has the club lost any big suits of this type?

Berry: We have never lost a SLAPP suit, and as far as I'm concerned, and unless some great big mistakes are made, we're not going to lose any.

Lage: If you've never lost one, you'd think the practices that lead to them would begin to diminish.

Berry: Usually they don't take on the club itself. In fact, in this Perini lawsuit, they did not initially sue the club, though what allegedly were the grounds for suing the club existed from the beginning. I think they were afraid to sue the club, because they knew we'd come back in full force. In fact, that lawsuit, after literally weeks and weeks of depositions being taken by others, was finally dismissed in the middle of a deposition we took of their chief witness. I was deposing their lawyer who had dreamed the suit up. He spent the morning evading my questions, they left for lunch, and when they came back said, "The deposition's over, and so is the lawsuit. We're dismissing it."

At the time, we would have been happy if they had just paid our fees to that point, but they refused to pay a nickel. So they ended up paying a great deal more.

Lage: So then you did a SLAPP-back to recover your fees.

Berry: We did a SLAPP-back to recover fees, plus.

Lage: Fees, plus punitive--

Berry: In effect, punitive damages, yes. They paid a significant amount of money, \$2.4 million.

The Second Upper Newport Bay Litigation

Lage: Are there any other suits that you've been involved in that you think we ought to talk about, that made important legal points or broke new ground?

Berry: Well, I think you asked me earlier about the first Upper Newport Bay suit, Orange County v. Heim [1970], didn't you?

Lage: Yes.

Berry: I've been involved in tidelands litigation for quite some time. A subsequent suit in Newport Bay (Orange County Foundation v. Irvine) was filed before our last interview but not completed until

afterwards; the suit took ten years, and unfortunately we lost. It was another suit concerning Upper Newport Bay--

Lage: And the Irvine Company also?

Berry: And the Irvine Company. I was very disappointed by the outcome of that suit. They had offered us all of the perimeter lands at the head of the bay, which would have gone into the tidelands trust. I wanted to settle it, and the club wanted to settle it, but the individual plaintiffs involved did not want to settle it.

Lage: They were local people?

Berry: They were local people, some of the same people involved in my first Upper Newport Bay suit. The offer was of lands arguably worth \$10 to \$20 million.

Lage: Which would be given to whom?

Berry: Be given to the state, and put into the tidelands trust, to enhance the bird reserve established as a result of my first lawsuit. And since the other plaintiffs wouldn't settle, I was forced to try it. We won all the legal issues, but we got "hometowned" by the judge. She decided a single fact issue against us, so we lost. I was very disappointed about that.

Lage: What does that mean, a fact issue? You won the legal issues but lost a fact issue?

Berry: If the facts are in conflict, lawyers call that a fact issue. On opposing facts there has to be a resolution of where the truth lies. Generally on appeal, you can't do anything about a fact determination. If the finder of fact, either the jury or the judge, makes a finding on disputed facts, that's generally not appealable. And that's what happened in that instance.

Lage: How do you talk to your plaintiffs when you try to get them to settle?

Berry: In that particular instance? I don't think you want to hear the words I ended up using! [laughter] I tried literally for months--

Lage: So you really worked on it--

Berry: --tried reason, and finally I just got mad. There was no other place for me to go. Michele was furious.

Lage: With you, or with them?

Berry: With them, because she was then president of the club, and we wanted to settle. I didn't care whether I got a fee out of it ultimately, because we would have gotten all that land. I was more interested in that kind of victory. They wouldn't do it. I was very upset with them.

Lage: What would you have gotten if you had won the case? What were they holding out for?

Berry: Well, the immediate objective of the suit was repayment to the state of some \$3 million in cash used to buy the three islands in the middle of the bay, which we contended the state already owned. That would have been the only direct result of the suit. Another indirect consequence would have been that some perimeter lands further down the bay then arguably were subject to the same precedent. It would have yielded a good argument those undeveloped lands belonged to the state, too. So there would have been ramifications outside of the suit itself.

But I didn't think what we could have won was worth what we were offered to settle.

Lage: You liked what they were offering--

Berry: Oh, yes. I very much wanted to settle that lawsuit.

Lage: That's interesting, how the two local people just had a different view.

Berry: Well, their resistance I think arose from antagonisms between them and the Irvine Company. I wasn't entirely free of such antagonisms, but they were nowhere near as deep with me.

Lage: What other cases you've been involved in would you judge to be particularly historically significant?

Berry: The Clean Water Act suits have been successful and significant. The Clean Water Act went unenforced to some considerable degree because of government laxity or whatever. But fortunately, in this instance, there's a private attorney general theory plus statutory authority to pay fees to those who do the government's job for it, so there's an incentive.

Lage: How is that set up? In the law itself?

Berry: In the law itself, in the statute. The defense fund has filed a number of such suits, and been very successful in some. An enormous sum was paid, some millions of dollars, here in a local lawsuit that Steve Volker handled for the club.

Lage: What was that about?

Berry: Union Oil had a practice of allowing prohibited substances to go into the bay in excess of what they were permitted to do.

Lage: Is that the one that was highlighted at the Sierra Club annual dinner?

Berry: Yes, that's the same case. I represented the whistle-blower in a subsequent lawsuit against his employer. He contended he'd been fired as a result of telling on the employer.

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Lage: Is that kind of language in the Clean Air Act also--that allows an outside agency to do the work of the government for it?

Berry: Yes, but no fees.

Lage: But no fees? Is that common in --

Berry: Generally, the law says that without specific statutory authority, you cannot get fees, which makes it difficult. A general statute in California allows fees where you serve a public purpose, but it doesn't get uniformly applied. In federal law, you generally need a specific fee provision in the statute itself.

Lage: And it's not in the Clean Air Act?

Berry: Not in the Clean Air Act, no.

Lage: But is the provision that the nongovernmental group can bring suit in a lot of acts?

Berry: Oh, yes.

Lage: That's not uncommon.

Berry: Yes, not uncommon.

The Sierra Club Political Committee and the Clinton Campaign

Lage: I'm just going to move on to the--you were very involved in SCCOPE [Sierra Club Committee on Political Education] when I talked to you in 1984. I know it's not called SCCOPE any more, but have you kept up your involvement with that aspect of the club's work?

Berry: Not as a member of the committee, no. I've kept up my interest and played some role, but not a primary role.

Lage: Is there a reason why it's no longer SCCOPE? And what is it called now?

Berry: Political committee.

Lage: Is that just a change of name, or is it a change of--?

Berry: Oh, there are some internal changes, but essentially it's just a change of name.

Lage: Not of basic setup, more independence or less independence?

Berry: No, it's a creature of the club and has moved along in a magnificent way. The sophistication and planning is far better than it was. The program has grown in scope, size, and accomplishment. It might even take some credit for electing Clinton, and certainly credit for opposing Reagan, which though unsuccessful ultimately, was well worth doing.

Lage: Looking back at some of the minutes, it was interesting to see how Bush's chances were regarded. At one point, in 1991, it looked as if the club was wondering if they should even get involved in the presidential election, or am I misreading it? That Bush seemed so unbeatable at one point. Am I misreading some comments?

Berry: Such thoughts are expressed probably more often than they're acted on. Someone will raise the point, maybe not even necessarily with their own belief behind it but simply because all points of view should be considered--and I think that's healthy. You always should consider the downside. In the case of Bush and Reagan, there was no downside.

Lage: To opposing them.

Berry: To opposing them.

Lage: We don't want your words to be misread! [laughs]

Berry: There was no point not to oppose them, as I viewed it, because we were getting utterly nothing from them. In fact, Bush even more strongly than Reagan seemed to be attempting to systematically dismantle environmental laws, ignoring them, changing definitions right and left, trying to do us in.

Lage: Bush and Quayle as a team.

Berry: Yes, Quayle played his part. I never regarded him as the brains behind the outfit. [laughter] But yes, they systematically were out to do us in.

Lage: So there never was a question about how to approach this last election.

Berry: I think the question was raised, as you've noted, certainly within the political committee, but I think those arguments had more to do with the timing of events than anything else. I myself didn't want to endorse as early as some of my fellow board members did, not out of wanting to withhold the endorsement but simply because of timing.

Lage: When it would be most effective?

Berry: That's right.

Lage: Or when you could exert the most influence on them?

Berry: Well, both. You always want to exact promises as fully as you can before you give endorsement.

Lage: Did the club exact promises before it gave endorsement from the Clinton team?

Berry: Is there a writing signed by Bill Clinton? No. Was there a specific conversation? Not that I know of. Was there, through the indirect means of saying, "We'd certainly like to do this, we want to hear more about your program"? Yes, that method was used. That's the method we always ended up using, the only political way to do it. We wait until enough has been said or enough has been revealed about the record, or they've answered our written inquiries, and then make a choice.

Lage: Of course, your choice was not too difficult, it would seem.

Berry: Well, at the time endorsement first came up, the nomination wasn't fully decided. It was more or less decided, but not fully decided.

Lage: The Clinton nomination.

Berry: The Clinton nomination. And of course, at the point we decided, he had not yet chosen a vice presidential nominee, which of course made it all the easier. But that again, that's another reason why the timing becomes important.

Lage: Have you been involved with any of the attempts to influence appointments in the Clinton administration?

Berry: I've not personally; Michele has been. There was a "100-days" committee, which I guess now no longer exists, to take on the primary job of screening and making the direct contacts. It would be chaotic if they heard 100 different Sierra Club voices nominating people. For example, as head of the National Park Service, 100 people could do that job well, but the club should fall behind one nominee.

Lage: Did the club make an effort to work with other environmental groups to put forth--?

Berry: Yes.

Lage: Do you know if they were well listened to?

Berry: That sort of thing is not generally handled by many people, usually by just several, and I was not involved in the process. But from all reports, it worked tolerably well, yes.

II SIERRA CLUB PRESIDENCY, 1991-1992, AND RECENT INTERNAL AFFAIRS

Presidential Role in Environmental Issues and as Ambassador to Club Chapters

Lage: During your presidency, what would have been your role in the key environmental issues? What does the president do in relation to the environmental issues? Do you work as a lobbyist, do you make decisions on strategies?

Berry: That job includes so many things you almost don't get time to lobby. You play a role in some of the conservation efforts. I tried to get going an attack on Bush, and that effort went forward and ultimately was taken over by the political committee when momentum was gained.

Lage: Now, what kind of an attack?

Berry: A coordinated attack on his record. We decided more than a year before the election to do that. The idea was take off the gloves and start hitting. Michele and I gave some Wayburnized money to that effort.

Lage: Does that kind of thing get voted on by the board, or does staff join in, particular staff members, or how do you get it going?

Berry: We had a resolution, or at least a consensus, to have such a campaign.

Lage: Did it have a name?

Berry: I called it the anti-Bush committee. Whether it had a formal name, that's how I thought of it. It made some initiatives, gathered a few ideas, put together some notions for newspaper ads, and some TV ads in particular. We had some great hopes for those, but it was a

problem of getting enough funding, of getting people to write it, and events sort of overtook us. Some of the ideas became moot. But it rallied the troops to some degree.

Lage: But as president, you didn't fly to Washington and do key lobbying or--?

Berry: No. When you're president, you're invited to speak all over the place, particularly to chapters and groups. In the last half year of my presidency, I must have gone on close to ten trips to speak at particular events. I wanted a great deal of conservation content and so I got all the newsletters I could find in the house. They come in about fifty a month, because there are that many chapters and groups to send them to you. I picked out particular issues to talk about, sat here for nights putting together one on this or that and then another, until I had eight different speeches all ready to go.

I gave only one of them, because when invited to chapters, I would ask what they wanted me to address. They would say, "It's the history of the club that's important in the centennial year. Talk about the club, because you've been around longer than most people." So I ended up giving a highly anecdotal and in some ways personal observation of how the club had changed in the years I'd been with it, which was about forty years. I'd seen the last half of the development chronologically, and certainly more than half, if you consider the club being reborn with Brower's coming on as executive director. I knew it even before then.

Lage: Did you give a broad sweep of the club's growth, or did you give some--?

Berry: A broad sweep. When I joined, there were 5,000 members, and it stressed outings. I talked about Dinosaur [National Monument] as pivotal to growth of the club. It was an absolutely transforming campaign. And the growth of our militancy, our sophistication, and of course growth in numbers and in organization, specialization of the committees, and pivotal events, such as the loss of tax deductibility and growth of the legal program, growth of the political program. And fortunately, I had an opportunity to be involved in the initiation of all of those. Growth of the foundation, too.

So I gave a highly anecdotal view of all that to each audience. It was a little ironic. I'd spent hours, days, weeks preparing these speeches and I only gave one of them. [laughter] Had them all prepared on different, specific subjects.

Lage: That's kind of interesting, that that's what they wanted.

Berry: That's what they preferred to hear.

Lage: And actually, maybe that's the president's role.

Berry: Well, I decided finally that it was in fact the president's role, to attempt in some way to link it all together.

Lage: And to represent the national, I guess, to the troops. Were people that you spoke to aware of the club's history, or was this news to them?

Berry: It was news to a lot of them. Easily half the people I spoke to had been in the club less than five years, and even to speak of events ten years before made me sound like--

Lage: Ancient history.

Berry: --like an elder. [laughter]

Lage: How did you like taking on that role, of club elder?

Berry: I don't feel like an elder, though I have been around the club--

Lage: You're much younger than the real elders.

Berry: Well, I hope so. [laughter]

Lage: But I think sometimes you're linked with them, because there are so many real newcomers.

Berry: I had the advantage of starting when thirteen, so that allows you to put a fair bit of the history behind you and still be young. And I also had the unique advantage of joining right at the time these events began to occur, when all of these issues got thought through. I remember going to board meetings where it was seriously contended, furiously at times with Dave, that the proper course for the club was not to criticize public officials.

Lage: That was a big issue [in 1959].

Berry: The first legal issue I handled for the club at a PUC hearing about Bodega Head. I wanted to talk about the nuclear safety issue, which I was told very bluntly by Dick Leonard, who's now honorary president [deceased 7-31-93], was not a conservation issue. If you told club members that today, they would think it some huge facetious joke. But in that time, it was taken very seriously.

Lage: Which says something not just about the Sierra Club, but about how times have changed, and attitudes.

Threats to Club Power and Purpose

- Berry: Times have changed enormously. And they'll continue to change. I just hope we don't lose our sense of purpose, which will never happen all in one piece. It would never happen as one dramatic event. But it could happen as the sum total of a lot of smaller things.
- Lage: What kind of events would you see as threatening? Things that have happened--
- Berry: Too much soft money directing our programs, the use of our power by other groups for their purposes.
- Lage: Some of the things we've talked about, actually, like use of the club name. What do you mean when you say use of our power by other groups?
- Berry: Lending our power to nonconservation issues. All these things can dilute what we stand for.
- Lage: Do you think that there will be redefinitions of conservation issues, as there has been on the nuclear issue? Are there issues that, like the environmental justice issue, say, or environmental racism, is kind of a new definition of environmental issues?
- Berry: I'm not sure it's a redefinition. It's used to build coalitions between ourselves and other people who had not viewed their problems as being environmental problems. If you live in a ghetto or next to a garbage dump, or where the air is worse polluted than in the rich suburbs, you may, with use of the term, begin to realize that is a conservation issue. That's not how it was thought of, say, five years ago.
- So that term is useful, because it draws together natural allies. I'm not objecting to this sort of thing. I object to just plain borrowing our power for non-club purposes. For things not at all, even arguably, conservation purposes.
- Lage: Give an example.
- Berry: Joining the Colorado boycott. That's not a conservation issue.
- Lage: It is a gay and lesbian rights issue. [The Colorado boycott urged groups not to have events in the state of Colorado because of an anti-gay and lesbian initiative passed by Colorado voters. A group of Sierra Club members tried to get club outings to Colorado canceled in 1993.]

Berry: Yes. As an employer in my office, I employ a high percentage of people whose orientation is gay, and I think that's the proper place and way to express those concerns, by being a fair employer. The club also can do it as an employer, but to lend its political power just outright to another issue whittles away our base and confuses people. Someone wanting to join the club joins for conservation purposes, not because we're the Democratic party or the ACLU or something like that. There are other organizations for these purposes, is how I view it. So yes, I've been opposed to that kind of borrowing of power.

Streamlining an Unwieldy Club Structure

Lage: Are there other problems that you see that could weaken the club?

Berry: Our structure has to be streamlined somehow. Some ongoing effort is going to that. In the very nature of a volunteer organization, you have people changing positions and roles, things getting dropped between the chairs, lack of continuity. Those problems have to be addressed organizationally in some way to dampen the more serious effects. You can't avoid them altogether; they're in the nature of a conservation volunteer organization. We also have to constantly be on alert for too many fingers in the same pie.

Lage: Too many volunteer hands?

Berry: No, too many different entities or groups having their hand in the same pie. I'm not arguing against our rather fierce form of democracy; I'm a believer in that. Thus far, we've avoided the arrangement Audubon has, and works well for it, where entities are really totally independent regionally.

Lage: The chapters are the entity in the Audubon Society, aren't they?

Berry: Yes, but they are separate corporations for the most part. And though that works well for them, I don't think it would at all for us. We've avoided that.

Lage: Has there ever been a move to do that with the Sierra Club?

Berry: Yes.

Lage: A serious move?

Berry: I heard it seriously discussed by an officer of the Sierra Club within the last two years. I was aghast, because that would be the

worst possible solution. I have no pat solution for this. I just think you have to be ever alert, straighten your procedures, arrange your organizational chart while aware of those dangers to avoid as many as possible. I think that just takes constant attention.

Lage: Michael Fischer mentioned that the club, the national club, and I guess he as chief executive officer, was responsible for every staff member of the chapters and groups.

Berry: In some senses, yes.

Lage: Legally, he implied.

Berry: In some ways he was legally responsible.

Lage: And yet has almost no control over them.

Berry: Yes, that's one problem. Another is if you fractionate structure too much, the volunteers will constantly be perceived by staff as unable to act, too slow moving. And the natural tendency of staff will be to ignore the volunteers. That is a big danger and constant attention has to be given it.

Lage: I sometimes hear little descriptions, indications that maybe sometimes part of volunteer activity is seen as kind of a sandbox; it keeps them busy.

Berry: That may be true. Some people join the club because they're interested in process and they tend to see more in the process end of it than they should. It's not that they've lost sight of the substantive goal or supplanted it, but process becomes inordinately important to them, and I think that's a danger.

Lage: Are there problems with the Sierra Club Council [the entity with delegates from each chapter which focuses on internal affairs] at this point in time? Is it doing what it was originally set out to do?

Berry: It was originally an organization for chapters and committees to have a voice in national affairs. It has evolved over time. Many internal issues have been delegated to it.

Lage: But can they resolve them or just advise?

Berry: They right now are trying to decide that. The same debate has gone on for years. At an extreme, some people say, "Do away with the council altogether." Which is politically unfeasible. Even if

that were the desired solution, and I'm not saying it is, you might as well forget it.

It is unwieldy to delegate to fifty people the debate of internal issues. It's just plain unwieldy by reason of numbers. It's inefficient also, because many internal issues don't have such importance all fifty need to debate them. So some process has to be found where many internal issues subdelegated by the board are handled not by the council as a whole but by some smaller substructure, either of the council or of the board.

This basic issue has been debated and debated and debated. Had it not been for this issue, Michele and I probably would not have met, because she started coming out here more frequently to the West Coast as part of a group debating that very issue.

Lage: Long ago.

Berry: Well, fifteen years. So this issue has been before us off and on almost forever, it seems. When I was last president, I gave one president's message devoted strictly to the issue here. Progress could be made, and I understand the council is now examining the problem.

Lage: That they redefine themselves.

Berry: That's right. There are good people there; some real talent. So hopefully they can do something.

Conflicts within and with the Atlantic Chapter

Lage: Talk some about the problems with the Atlantic Chapter.

Berry: Which time?

Lage: [laughs] Oh, has there been more than one? I thought during your presidency, there had been problems with--I'm not clear--

Berry: And before and after.

Lage: It's an ongoing thing?

Berry: Oh, there's always some problem brewing with the Atlantic Chapter.

Lage: Why? Why the Atlantic Chapter, and what is the problem?

Berry: I don't quite know. If I utterly spoke my mind, I'm sure I'd make somebody furious--

Lage: Why don't you, and then you can get rid of it later?

Berry: I think the board has been impatient.

Lage: With the Atlantic Chapter?

Berry: With the Atlantic Chapter, and at times probably with good reason. One time, you recall, they vastly overspent their budget, because they were paying, at least as far as anybody could tell, almost no attention to how much they were spending. They at one point had something like seven chapter employees, but funds for maybe half that.

Lage: Was this just poor management, or some kind of deliberate--

Berry: Oh, I don't think it was deliberate, but yes, it certainly was regarded as poor management.

And then, beginning more than a year before I became president, either an unwieldy majority or a cantankerous minority, and I could never quite decide which, got it into trouble, but in any event, the chemistry was such everybody was at each other's throats almost constantly. They couldn't decide on their own constitution. They had a governing board of far too many to ever be workable--just by reason of sheer numbers. They had intramural events pitting essentially the New York group, which is larger in membership, against the rest of the state. They had, and had always had, it seems, some very cantankerous people.

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Berry: In the simplest terms, they don't seem to get along with each other very well, nor do they tolerate efforts to attempt to mediate their differences. At times, some efforts to mediate may have been misdirected because they viewed it as a top-down type solution. That's one criticism but I'm not sure a constantly valid one.

Another criticism is we've temporized with them and put up with too much guff. I'm not sure that's entirely correct. Both criticisms at one time or another appeared to be supportable.

They seem to have gotten along better since we backed off--I didn't quite call it benign neglect, but I suppose that's how some people might have viewed it--during my presidency. I thought the whole thing had gotten to a fever pitch.

Lage: They were going to suspend them at some time.

Berry: They were going to suspend them, and then an outside lawyer brought in by Michael Fischer without asking me about it, gave a legal opinion I thought was dead wrong. It was to the general effect our bylaws prevented our board from telling them what should be in their chapter bylaws, their constitution.

Lage: Their bylaws conflicted with--

Berry: With the model bylaws, from the council. I disagreed with that legal opinion. I felt it being one corporation, the board has the authority, and if it doesn't have the effective authority to deal with essentially a breakdown of an individual chapter, I don't know who does. And the idea nobody had that power I thought was ridiculous, and I stated so at the time. But unfortunately, that contrary legal opinion got out into everybody's hands, and of course it overjoyed some in the chapter. So then we got maneuvered because of this inadvertence into having to try to vote through a change in our own club bylaws just to confirm a power I thought was already there.

Lage: Just to make the club bylaws stronger?

Berry: To have the club bylaws permit us to reach down from the board level and tell them that their bylaws or their actions had to be changed.

Lage: Did that pass?

Berry: No.

Lage: Do you think it was understood by the membership?

Berry: I think it was misunderstood by the membership, because people in the Atlantic Chapter and a few of their friends chose to raise this as some sort of civil rights issue--this was Big Brother allegedly attempting to abuse them, which I thought was silly. The point is, it's a single corporation, there has to be a single head, and if a chapter is in chaos, the board ought to be able to cure the problem. It's that simple. It wasn't a question of civil rights of the membership. Anybody who knows the club knows the board would never do that. It was a convenient arguing point used against us, and, of course, the change had to pass by more than a mere majority, so--.

Lage: And does the fact that it failed change anything?

Berry: It doesn't change my legal view that we have the power anyhow.
[laughter]

Lage: Your own view hasn't been tested yet, I assume.

Berry: No.

Lage: That would look very bad if you had to take that one to court.

Berry: Perhaps my overall view is paradoxical, because, whereas I thought we had the power to do it, I thought it best not to do it, because that was draconian, suspending the chapter. I didn't think the chapter was that bad.

Lage: What was in their bylaws that was objectionable?

Berry: That depends on your point of view, because when you get into that issue, you get into the middle of their fight. The people in the New York City group wanted representation on a per capita basis. The New York members from outlying areas didn't want to be dictated to by what they felt was an overbearing New York group, and so asked for regional representation, in a sense.

Finally proposed was a fairly reasonable compromise with something for both sides. That came out of the council's intervention or mediation, depending upon how one views it. I thought it had been accepted by the people in New York, but some people very much enjoy a good fight, or perhaps just any fight, whether good or not.

Lage: Or distracting.

Berry: Some people totally wanted to stay out of the whole issue.

Lage: But wasn't there also an issue of their taking a conservation stance that was in opposition to the club's stance, in an area that was completely outside of the chapter?

Berry: There was the Wild Rockies proposal some of their people wanted to endorse, and their chapter may actually have passed a resolution of endorsement. Which I felt was a violation of policy, because it was outside their geographical boundaries, but also because it was an issue of national importance, and that's what the board is there to decide, not them.

And so, as periodically happens in the club, we had a group rise up claiming to fight some sort of civil liberties battle, and the board of course was Big Brother doing it all wrong. I don't buy that at all. I've heard that argument raised a number of

times, and almost always overblown. It's always divisive, and at times it seems purposely so. Not that I think anybody has infiltrated us for an ulterior purpose, but simply because some people just can't see the forest for the trees. They tend to view us as unable to move at all, and therefore in need of some sort of electric shock treatment. I don't think things have ever gotten that bad in reality.

Lage: Is this a major source of tension between the chapter and national, within the volunteers?

Berry: It's an occasional problem, a thing that crops up, generally on an issue like the Wild Rockies, where there's some sweeping proposal with politically no chance at all, but it seems like a nice damn-the-torpedoes approach. Or it will be raised on something like the nuclear issue, where people aren't satisfied to make incremental step-wise progress. You see this sort of thing in those instances.

I can understand some of their impatience. I mean, I've been speaking myself here about what I think are problems with the club's slowness in making decisions, but I don't think it calls for this kind of counterproductive reaction.

One Solution: Wholly Owned, Legally Separate Subsidiaries

Lage: You proposed when you left the presidency the possibility of having spin-off subsidiaries. Is that related to the decision making and the slowness of decision making, or is that a separate one?

Berry: It's related to those two things, but a great deal more. I have proposed we spin off some wholly owned subsidiaries to handle portions of what the board now attempts to handle, but without expertise. There are additional reasons to propose spinning off of subsidiaries. With the outings program, we run a liability risk which could be catastrophic--if a whole plane went down or a ship sank or train got wrecked--something where large numbers of people were killed or injured.

That possible liability could be shielded if we had a subsidiary handling outings, and carrying any possible liability for the results. It would have to be properly capitalized and insured. If there were some event that carried huge liabilities it could not wipe out the club. So that's an additional reason for separately incorporating outings.

There are additional reasons. One is outings is really a business, and requires business expertise which is very strong in the existing outings committee. Those people could run it as a separate corporation, acting as a board instead of a committee. I think they'd do a good job of it. In fact, they'd do a better job of it.

In a separate corporation, even if the directors were appointed by our board, they would carry more clout, a greater sense of importance. They could search out their own destinies I think better than they can just as a committee.

Lage: But would you run into the problems you ran into with the Legal Defense Fund?

Berry: No, because the club would own it.

Lage: You could own it and still maintain the limit of liability?

Berry: Oh, yes. There's nothing at all unusual about this solution I'm proposing. It's a standard solution in the business world. Chevron has a whole galaxy of subsidiaries which are separate corporations. They operate as separate corporations. Their boards are appointed by the parent. So long as you adequately capitalize and let the people appointed to the boards actually run the thing, it's perfectly legal.

This would have the additional benefit of taking off our board's plate a whole lot of stuff, a whole piece of the budget we wouldn't have to worry about. A whole piece of the management the executive director would not have to worry about. The liability problem would be largely taken care of. Such a subsidiary could be 501(c)3 and tax-deductible. Some old-time Sierra Club people I don't think at this moment would give to the club because they think it's grown away from them, but they would give money to something like Sierra Club Outings, Inc.

There's another purpose to accomplish, either with a single subsidiary or perhaps two, one to run chapter outings. We now can't have mountaineering because of insurance restrictions, but if we had a separate entity, this might well become possible again. We could run the higher-risk outings, the river running, the scuba diving, the mountaineering.

Lage: So place the chapter programs under the subsidiary.

Berry: Under a corporation, not necessarily the same one as for national outings. There are some internal political problems there, because

the outings committee doesn't really want to run the local stuff. But another separate corporation can do it.

There are a bunch of business ventures we're now involved in, such as the Lucas contract, our old catalogue program, the books program. All those things I think could better be run by people appointed from within our membership who have expertise in those areas, and run them like businesses.

Lage: It sounds like a great idea. Somehow, I would envision the board of directors still having trouble if the subsidiary started to go in a direction they didn't approve of.

Berry: The board would have the power of appointment.

Lage: Then they would change the board [of the subsidiary].

Berry: Yes. You have absolute control, though you don't exercise it on a day-to-day basis. Oh, it's perfectly workable. I have no concern about the name getting away from us. That's easily controlled legally.

Lage: Have other people brought this up, or was this a--?

Berry: Other people since I first introduced this idea maybe five or six years ago, have talked of applying it in other instances. Andrea [Bonnette], while still in her position, wanted to see many of the business entities incorporated separately. It would get a lot of stuff off the Sierra Club board's plate, and out of its budget, and into the hands of people truly expert in defined areas.

Lage: Has it been seriously considered, or feasibility studies done, or--what was the response?

Berry: There's not been a lot of negativism, but certainly a slow approach. At first, the outing committee was opposed, and then fell in line behind it. They began to see not only the natural advantages but an opportunity to keep their program from slipping lower and lower on the horizon. They, I think, finally bought my argument that, if instead of appearing periodically before the board through their chair--after all just one of many chairs--their president appeared before our board two or three times a year, they would get a whole lot more attention, and just simply have more clout.

I think they've seen that, and I believe personally quite strongly that that would happen. So I think they have come on board. We formed a task force to address this, but it's sort of languished for the last year. I got after some people about that

recently. It's something I want to see go forward because the whole idea is quite viable, not just for outings.

Lage: But for the whole--

Berry: For a whole lot of things. The books, all our business programs.

Lage: That sounds very right, somehow.

Berry: It's not far-fetched. There is a Sierra Club Limited Corporation formed back in the 1960s as one of Brower's creatures.

Lage: Sierra Club Limited; I've never heard of that.

Berry: It's a corporation in the United Kingdom. Whether or not it's kept its registration and its legal viability, I don't know.

Lage: That was one of the controversial--

Berry: Semi-controversial. There was money, blocked sterling, which we couldn't take out of the U.K., so we had to spend it there. How to spend it? Brower's solution was to spend it through a new corporation, and it may still exist, I don't know.

Lage: Were you in on that at all, an advisor, or was this something that--

Berry: No, I was never on that board.

Lage: But I mean in thinking of that idea?

Berry: No, that was Brower himself.

Lage: I think we should close up today, because I'm beginning to fold. I don't know about you.

Berry: Well, this conversation seems to wander. I guess that's inevitable, because these things link in strange ways.

Lage: One thing is tied to another.

Berry: Yes, link in strange ways, and I probably should exercise more discipline in formulating my answers.

Lage: I think you're showing how interrelated everything is. So we wouldn't want to make it falsely orderly.

Berry: Well, let's hope it reads that way, at least.

Lage: [laughs] We'll see.

Conflicts over Club Stance on and Funding for Nuclear War Issues

[Interview 3: July 1, 1993] ##

Lage: I wanted to start off today with the thing we talked about after our last interview session, the nuclear war and peace issues and the controversy in the club about that, the kind of ill-feeling that seemed to come out of it. Also, some good humor.

Berry: Oh, you got hold of those, eh?

Lage: You gave me this, the Report of the Committee on the Parable of the Small Fish.¹ Anyway, do you want to just tell something about what the issues were and why the controversy erupted?

Berry: I think the club in general, and certainly the board of directors, were interested in taking a stand on all aspects of war and its environmental effects, and particularly the dangers attendant to use of nuclear weapons. They also, at the same time, wanted to take a position regarded as credible and not susceptible to red-baiting.

There was a minority within the club generally angry over the whole issue, and when it saw the board opting for such things as a bilateral freeze, they thought it did not go far enough and wanted us to take unilateral positions.

Lage: That was about the mid-eighties, it seems--

Berry: That was the nub of it. There were issues subsidiary to all that.

Lage: Wasn't a special task force created to consider these issues?

Berry: Yes.

Lage: And were they upset about the level of club funding for these issues? Am I remembering that correctly?

Berry: There were disputes about funding all the way along. The biggest dispute was whether, after declaring the nuclear issue a priority, we would also fund it as a priority.

¹See Appendix B.

Lage: So the board did declare it a priority.

Berry: Yes, ultimately.

Lage: Was this a result of a considerable amount of grassroots action? I mean, some issues seem to get decided after a great deal of lobbying of the board.

Berry: There's a process, oriented in the grassroots, for determining conservation priorities, in how you allocate staff time in the Washington office, and to a lesser degree, how you allocate major money resources. Some priorities have been placed on that list with little or no money allocated. There have also been club priorities not part of that process; some of long standing, which don't enter into that process because it's determined there's no federal hook at the moment on which to place a program.

This is as much to say there are priorities and there are priorities, different types of priorities. The people who found themselves at odds with the club board more or less from the beginning argued that, in every sense of the word, the nuclear issue, and particularly the issues as they would frame them, should be priorities. And so there were many incidents, including a lawsuit, and much agitation over this. Because so much emotion surrounded it, ultimately, in the eyes of the dissenters, the position of the club and the board were the virtual equivalent of what you might expect out of Ronald Reagan, which wasn't true. But they were so angry they just about argued it that way. I'm not saying their words were in that form, but certainly their anger and their suggestion people were brushing the issue aside, and thinking only of ways out--all that rhetoric probably should have been directed elsewhere.

Lage: What was your feeling about the issue? Where did you stand on the issue of how the club should deal with the nuclear war issue?

Berry: From the very beginning, I thought I stood for a strong position, certainly at the initiation stronger than much of the rest of the board. Many of them felt at the very beginning it was an issue we shouldn't get into at all; I thought we should.

And then progressively, views on the board changed, and I felt I was always one of those in a more accepting mood, on making it an issue, an important issue, and putting some weight behind it.

Lage: You thought it was a legitimate environmental issue.

Berry: Yes, I did. But at the same time, I could not agree with those positions I thought would have gotten us into some trouble.

Lage: Did you think a call for a unilateral freeze would open the club to poor public--?

Berry: Yes. And I didn't think it would do any good. I thought all it would do is lead to a lot of red-baiting, accusations of disloyalty and this sort of thing, and ultimately not do any good. As a practical matter, you could see the politics in the United States were there would be no unilateral freeze or disarmament or anything of that sort. There was too much phobia related to Soviet Russia.

So you had to pick a credible course and hopefully achieve some results, not just state a view that might make you happy personally but would have no effect on the issue and would cause trouble for the club. So I tried to steer that course.

Lage: And that was the eventual course that won out, was it not?

Berry: I think it was, with criticism all along the line.

Lage: On both sides.

Berry: Well, mostly on one side. [laughs]

Lage: Now, what was the lawsuit that rose out of this?

Berry: I'd have to look that up, the precise issue.

Lage: Did it have to do with a club vote?

Berry: Yes. There was a petition to put a question on the ballot, and a big dispute surrounding that which ended up as a lawsuit.

Lage: I recall that it had to do with the wording of the proposition. It sounds like the Diablo Canyon controversy revisited.

Berry: I think there was some dispute about the wording. One part of the debate was over who could sign ballot arguments.

Lage: So they were procedure issues. Was it mainly San Francisco Bay Chapter people that were pushing the issue for a stronger position?

Berry: Mainly, but there were one or two people from Oregon. Some people from back East. A professor from Utah.

Lage: What did Dave Brower have to do with it all? Was he on the board at the time?

Berry: Yes, Brower was on the board, I believe. At least during a portion of this time. This was sort of a running battle over some three years. He was on the board for a while during that time.

Lage: And was he part of the lawsuit?

Berry: Yes, he sued the club.

David Brower's Role on the Board of Directors, 1983-1988

Lage: Would you talk a little bit about Brower's role when he came back on the board of directors, in this last incarnation [1983-1988]?

Berry: Respected as a figure, respected for his ability to rouse the crowd, and frankly largely ignored other than that. He had his pet subjects on which he held forth, and though I don't think many people on the board would admit it, he was largely ignored.

Lage: Why would you say that was?

Berry: At times he spoke out without knowledge of the issue. At times, he spoke as if there was some great moral issue on which he was leading the right side, and that wasn't really the issue. "Morality" was perhaps vaguely related to it, but not really the issue.

Lage: Was the club a lot more complex than the one he had left?

Berry: Yes, a great deal more complex. I'm not saying his views were totally out in left field or not worth listening to, but he got very repetitious. Very impatient with others; if you didn't agree with him, then there would be some words. And this gets old quick for a lot of people.

Lage: Maybe to be a director you have to be more of an institutional person, somehow, than he ever was.

Berry: Well, he is and is not an institutional person. When he's leading the band, he's the leader. When he's not leading the band, then he's not an institutional person.

Dave's major drawback throughout all of the organizations he's been in--and I, of course, speak from personal knowledge only in the Sierra Club case, but from what I've read, it was likewise the problem in other situations--is that he had some good ideas and he had some bad ideas, and he is very much the last person to know the

difference between them, but very insistent, and not really willing to listen to other people. Of course, sometimes they were not willing to listen to him. But he could turn friends into enemies by simply not showing the respect they felt they were due. I think that's essentially what happened in the Sierra Club controversy.

Lage: The earlier controversy [leading to Brower's resignation as executive director in 1969]?

Berry: Yes. There certainly were differences of opinion on public policy issues, where by and large, as you know, I thought Dave was right. But he would have done far better had he not disregarded his friends, or former friends, or former climbing buddies, by displaying to them a sort of a disdain, "Well, if you don't go with me, there's nothing for you," sort of an attitude. From what I've read--at least it's claimed by friends of his at Friends of the Earth--the same thing happened there.

I really don't think his forte is managing an organization. His strengths lay elsewhere.

Lage: Rousing the crowd is one of them.

Berry: Yes, inspiring people. But those skills don't always go with management skills.

Lage: No. Was this lawsuit dropped? Was this a major thing, or just a minor little--

Berry: It was lost by them.

Lage: It actually went to court?

Berry: It was an injunctive proceeding. They moved for an injunction to compel the executive committee to do certain things related to the ballot, and they lost.

Lage: And then did the controversy fade away, or was--?

Berry: The controversy continued on. There were lots of recriminations later. The lawsuit was sprung on us all of a sudden with very little forewarning. We had to scramble to get together declarations and affidavits in respect to it. I had to file an affidavit that proved to be factually incorrect in one situation described, because I did not have time to research it completely. Some people on the other side took me to task for that.

There were likewise errors, certainly as serious and probably more serious, in their factual presentation. In fact, on the same

point, the very same point on which they criticized me, they had factually, incorrectly stated it in exactly the same way as I had.
[laughter]

Lage: Sounds like a rush to the court.

Berry: Well, it was. And in an injunctive proceeding, you have to get ready and go right now, and it's not a mile race, it's a fifty-yard race.

Lage: Did Brower bring other lawsuits against the club? I seem to remember something about the publication of the book on the history of the Sierra Club.

Berry: Oh, he was very bent over the official Sierra Club history by [Michael P.] Cohen [The History of the Sierra Club, 1892-1970, Sierra Club Books, 1988]. He did not like how it described his position and what he did.

Lage: And did he sue over that?

Berry: I don't think he sued.

Lage: He may have threatened to sue.

Berry: He certainly created a big fuss about it.

Lage: It's interesting, because talking to Michael Cohen, I always felt that he was very sympathetic with David Brower, especially when he started his research.

Berry: I read the book; that's how I would describe it. I didn't think Dave came off badly at all in it. I thought it rather evenhanded.

I came to believe, even before I became a director of the club, that Dave demands 105 percent loyalty. He does not easily take criticism.

Lage: But you can't expect every book of historical analysis to treat you the way you want to have yourself described. That would be pretty unusual for anyone.

Berry: No.

Sierra Club Property Management, Incorporated

Lage: I want to get from you sort of an overview, and some insight, into Sierra Club Property Management, Incorporated. I've never really

heard how that was organized and the purpose, and whose idea it was.

Berry: The main purpose was to provide a headquarters building for the Sierra Club without the club having to put up money itself. This was made possible by finding donors who, at least on paper, were not quite donors: they were investors. They invested in a limited partnership to own a building. Their equity melted away, because their ownership was of a thirty-year lease which, after those thirty years, terminated. The property underlying the building, that is, the fee, belongs to the foundation, which then ultimately ends up with the whole thing.

Lage: So the foundation owned the land, and the--

Berry: Yes, and the investors own the building, with a thirty-year term. So their asset melts away. The sugar in all this was special tax deductions you could achieve by renovating an old building. So the tax incentive was rather strong, and the motive to help the club in a bricks-and-mortar sense was strong. So there are twenty, twenty-five investors. I'm one of them. You had to put up a minimum of \$50,000 apiece.

Lage: Is this a commonly used method for nonprofits, or for for-profits?

Berry: I've never heard of it before, but it's an obvious enough method I'm sure it has been used.

Lage: Whose idea was it to bring it into play?

Berry: It was Bob Burke's.

Lage: Who's Bob Burke?

Berry: He's a paid outside counsel with Pettit and Martin.

Lage: The law firm in the news today?

Berry: Yes, the same one. He came up with the idea, and shepherded the project through all its legal phases. The building was bought; the investors got their tax benefits.

Lage: Which occurred over a period of time?

Berry: Yes, but very largely at the front end. And then the property declined in value, because of all the declining neighborhood aspects, such that now, at least on paper, and I think in actual fact, the investors have all lost their money. Because the

mortgage is greater than the market value. There's no equity left, in other words.

Lage: But there never was going to be equity at the end of the thirty years. Is that true?

Berry: At the end of the thirty years, yes, but--

Lage: But you didn't expect--

Berry: --we're nowhere near thirty years; we're not even at ten.

Lage: Goodness! It's lost that much value?

Berry: Yes. The neighborhood's gone downhill, as you readily can see. [The property is at 730 Polk Street in San Francisco.]

Lage: And it was thought it was going to go uphill at the time.

Berry: It was hoped it would go uphill. There's been a general market recession and an overbuilding of office space in San Francisco. Those two things coincided to drive values down significantly. No one, of course, foresaw this; it's one of the risks you take.

Lage: So how does that effect the investors financially? Did they have to put up more money?

Berry: It depends upon how it's treated from this point forward. I think almost all the investors felt ultimately they would give their interest to the club. That was certainly my intention and still could be done. The odd thing is, however, now if you give it to the club, you can suffer some rather nasty tax consequences. I can't give you chapter and verse out of the Internal Revenue code as to the whys and wherefores of this, because I'm not a tax attorney, but in practical effect, you can trigger some tax liabilities you hadn't expected.

Lage: Because you're giving something that has so depreciated in value?

Berry: Any time you make a gift, the whole question of tax basis comes up. That's what will catch you here. The alternative route is to just abandon the investment, which means you abandon it to whoever else is holding the title, which is the foundation ultimately. So most investors have ended up with no investment, which is where they expected probably to be. The route by which that had happened is probably unexpected. [laughter]

Lage: It doesn't sound like you hold anyone blameworthy, but--?

- Berry: How could you? The market went down; everybody thought it would go up. Space was overbuilt, and that drove market rents down. So it did not turn out to be a particularly good deal for anybody or the Sierra Club itself.
- Lage: Anything else we should know about Sierra Club Property Management, Inc.? I always heard Phil Hocker's name connected with that.
- Berry: He was the first president of Sierra Club Management, and he, being an architect, played a big part in how and at what expense the building was renovated.
- Lage: But the investors didn't, it sounds like from what you say, have any particular power over the club or--
- Berry: No. The investors have never even met. They've never taken a vote on anything except, recently, one vote on whether they had a preference for the manner in which they lost their investment.
[laughter]
- Lage: Not one of the most satisfying experiences.
- Berry: Everybody expected this result. It just hasn't proved to have as many tax benefits as perhaps hoped.
- Lage: Or as much help to the club, I would assume.
- Berry: Well, yes, the nastiest part of it is the club will not likely end up with an asset to trade or hang onto or whatever it wished to do.
- Lage: Yes, with the neighborhood being as it is.
- Berry: That's right.

Presidential Powers and Personal Styles

- Lage: I want to cover a few more things on your presidency. You mentioned, I think in our first interview, something about the power in the position as presider, the president's power. What did you mean by that?
- Berry: You can either move the agenda along, or fail to focus the discussions on the real issue, or let people run wild with irrelevancies. You can push the agenda or not. And also, you have the power of appointment, and the power to formulate the agenda. Various powers there are very useful.

Lage: Would it be possible to give an example of how you might have exercised that in a particular instance?

Berry: A precise example? There were numerous times it seemed to me there was largely agreement on a particular issue, but they were snared on problems with the wording or procedure or somebody's desire to talk too much. Frequently you could get out of those things by proposing a consensus, to disentangle things.

Lage: Is that one of the ways you saw your role as president?

Berry: Yes.

Lage: Is there a lot of variety on how the individual presidents handle their presiding?

Berry: Large differences. Some are very adept, and some not so.

Lage: But are they also adept in different ways?

Berry: Yes.

Lage: How would you describe your leadership style, say? Compare it with Sue Merrow's.

Berry: Sue was very anxious everybody get along quite well, and did an excellent job of improving the climate for discussion, one board member to another.

Lage: By insisting on it, or--?

Berry: Leading by example, and cajoling people. I thought she did a very good job of that, and I attempted to continue it, although the style by which I would aim for the same result might be slightly different. She was enthusiastic, always thanking people, talking about the joy of the battle, and things of this nature. My own approach is perhaps more with ironic humor. She enjoyed considerably meeting with individual chapters or groups. She was very good at that. To the extent able, I did too, though I did less visiting.

During her presidency the problems with the Legal Defense Fund became particularly acute, and ended up in effect being delegated to me. I probably had--I won't say the strongest views about it, because there were some very strong views on the board, but I undoubtedly had the strongest desire to hold the whole thing together if possible. Some didn't care; others actually were negative about what they thought were the transgressions of the defense fund. I don't think either of those other groups was in a

majority, but they were there, vocal at times. So a lot of it ended up being delegated to me for--

Lage: Even before you were president?

Berry: Even before I was president, to try to pull it together. As I told you earlier, I felt both sides had legitimate complaints. And so it was a question of working to satisfy the legitimate concerns and gripes of the both sides.

Lage: Did your being really quite close friends with Legal Defense Fund people help or hinder? How did it affect what you were able to do?

Berry: I remained on very friendly terms with all of them, but there were some strange moments. Rick, I began to feel in the last couple of years before his death--

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Berry: --was a centrifugal force carrying the defense fund out away from the club.

Lage: What about old friends like Fred Fisher and Don Harris? Was that--?

Berry: Some strains, yes. Fred and I continued to backpack together. One backpack trip which occurred when this reached its real stretch point was somewhat strained at times. Fred thought this issue wouldn't exist if Berry didn't agitate it, and I was bewildered by his point of view, frankly. I felt no question it had to be addressed.

But we got through it. We've continued to backpack year by year. We've stayed at their weekend home in Inverness. Only once or twice has the issue gotten to the point of any real hard discussion.

Lage: Sue Merrow mentioned being rather surprised one time when she went to one of these joint meetings [with representatives of the club and the defense fund] and Don Harris laid down a shotgun in the middle of the table.

Berry: I heard of that incident. I wasn't present for it. I think that was one of those awkward moments when one side tries to be funny. Don, I think, had just happened to come from where he picked it up, and an attempt at humor fell flat. I didn't read it as anything serious, but yes, there was comment about that. Don's not the sort to do anything dramatic like that; it's just not his style. An attempt at humor went astray.

Lage: Somehow it seemed symbolic of the tension.

Berry: I think it probably was an attempt to relieve tension that failed.

The Board, the Budget Crisis, and Staff Layoffs, July 1991

Lage: Let's back away from the Legal Defense Fund. When you were president, it looked as if there were a lot of newcomers on the board, a lot of--let's see, you had four brand-new members, [Kathy] Fletcher, [Jean] Packard, [Mark] Gordon, and [Duncan] Stewart; two one-year members, [Rebecca] Falkenberry and [J. Anthony] Ruckel; three two-year members, and then just a few longer-term. How did that--?

Berry: So it not only looked that way, it was.

Lage: It was that way. [laughs] It was a green board, I think Wayburn called it.

Berry: Yes. Some of the greenness showed. By and large, I thought those people made good contributions and were far more able to step in and do their job than some of their critics. A very odd situation developed while I was president. A group of people who left the board and had been in control the year before when the budget was formed became hypercritical. As the fiscal year bore on and the budget got into considerable trouble, they took more shots. Some of those people were very prone to take shots at Michael Fischer anyway.

Lage: People who had left the board.

Berry: Yes.

Lage: Any names that we could hang this on, or would you rather not?

Berry: Well, when is all this going to be published?

Lage: Whenever you say, after you read it.

Berry: Denny Shaffer and his close friends. They made no secret about being disappointed with Fischer, and that had been the situation for a long time.

Lage: But they had left the board when you came on?

Berry: Yes. Then, in July, it became apparent this was indeed a deep financial crisis. There was recrimination back and forth at that point. Andrea took the position she'd been warning Michael all along; Michael in effect said, "No, you didn't." Michael had to put some rather stern measures into effect--

Lage: The July massacre [the layoff of a number of staff members in July, 1991, in response to a budget crisis].

Berry: So-called.

Lage: I wanted to ask you about that.

Berry: At a board retreat within the next month Shaffer and others claimed things were going to hell in a handbasket, and asked why couldn't these new people properly handle things.

Lage: Oh, I see; so the new people were kind of blamed for this.

Berry: Yes. One rebuttal, of course, was they had not voted for the budget now in trouble, while some people now criticizing were in fact responsible for it. So there was a rejoinder, of course, on that issue.

Ann Pogue did not want former treasurers looking over her shoulder and constantly telling her they could do it better. Many new members did not want these prior members present during discussions, even to the point I was approached by more than half the board requesting our discussions be totally closed, in private session.

Lage: I wondered what the old members were doing at the board retreat.

Berry: They had various official positions. I had talked with Shaffer about what he might do for the club, and virtually gave him the pick of jobs he might take. He wanted the vice presidency for planning, which I gave him, over protests of a number of board members. Downing was there as president of the foundation. He is generally regarded as being in close step with Shaffer. They're very good friends, and share a house in Italy.

As their criticisms came forth, I tried to ignore any provocation, but after the next six months I finally felt I could no longer ignore their attacks, and shot back a few of my own. But at that meeting, there was already a lot of strain over this.

Lage: Over the criticism of the new board.

Berry: Yes.

Lage: But did you feel the new board handled things okay? Did you have any difficulty working with them?

Berry: No, I thought in very difficult circumstances the best as could be done was being done. Simmering at this point in the background, not totally recognizable to me, was the Andrea-Michael schism. I didn't realize this was a Grand Canyon of differences. Shaffer and friends were part of the Fischer shooting gallery. So a lot was going on beneath the surface.

Lage: What did you think of that so-called July massacre? Was that something that Fischer consulted you about? This was in reference to laying off a number of club staff.

Berry: Yes, he did. I had just gotten out of the hospital. I had not yet gone back to work at the office. He called me here at home to discuss it with me. He had already discussed it, as I recall it, with the treasurer and Andrea. There was need to do something rather drastic. I asked him to inform the board of the general circumstances and then take whatever action necessary. The specifics of the action I was not all that familiar with. I knew there had to be firings; of whom, I didn't know. What positions, I didn't know.

Lage: There was quite, it seemed to me, a lot of uproar about the fact that Danny Moses from the books program was let go.

Berry: Yes, a great deal.

Lage: Is there something behind that, some reason for his being--?

Berry: Because Moses had been one of those who sued the club earlier?

Lage: Over the nuclear--?

Berry: There was an implication raised somebody was getting back at him. Brower, at least impliedly, suggested I had fired Moses. I had not either fired him or picked him to be fired, or picked his position to be terminated. It was news to me as it was to everybody else.

There was criticism more broadly that a decline in the books program would necessarily result from not doing the sort of books Moses worked on.

Lage: He did issue-oriented books, as I recall.

Berry: Almost all our books are issue-oriented. His forte, at least partly, was books on the so-called cutting edge of conservation

theory, and indeed, some of them were. Some were also virtually mystical. And so--

Lage: So they were theoretical, many of them?

Berry: For a couple of them, I wish I could figure out what the theory was. [laughing] Some of them I thought were outright mystical. Pacific Shift, The Night Sky--I suppose there's some theory in there somewhere, but largely missing in my reading.

Lage: Were they successful books?

Berry: Moderately successful. I frankly thought Pacific Shift was an embarrassment to the club. I thought it just plain shallow.

Lage: When something like that comes out, do board members make their thoughts known, or do you try to stay away from--?

Berry: If they read the books. Not all read the books, and not everyone reads all the books. But there's generally some discussion. I felt for some time there ought to be much closer ties to the actual ongoing issues of the club. You can do only so many frontier pieces without lapsing into things like mysticism.

Lage: When you say frontier pieces, what do you mean?

Berry: There's a lot to be done on the frontiers of conservation to get people's minds turning over on new subjects and thinking of old things in new ways. That's all for good, and the club has always played a part in that. But I rather doubt there are that many books needed as we were attempting to put out directed toward such subject matter.

Lage: Was it Jon Beckmann, then, who selected Danny Moses to be laid off, do you think?

Berry: A good question, because as I listened to the external and the internal debate about that, there was no agreement between Fischer and Beckmann over what had happened. It came down to their each pointing the finger at the other.

Lage: So one doesn't know who made the choice.

Berry: My best guess is Fischer said to him something on the order of, "If you really had to cut, where would you cut?" And so it was a question of what Beckmann offered up in answer to that kind of question. Then this became the bone of contention: was Beckmann saying Moses should be fired, or was he saying, "Spare me

everything but, if you absolutely have to cut, cut here"? So, to a degree, it's a little bit of a definitional problem.

Lage: The layoffs left a lot of residue of bitterness, I think, among the staff, who felt they weren't carried out very well.

Berry: There was some equivocation over the question whether it would be a forty-hour week, thirty-five-hour week or something different. A question of whether the staff would be consulted before cuts were made or they wouldn't. And I've never really quite gotten to the bottom of that. There did appear to be equivocation by Fischer. Then any incident of that size becomes grist for these other mills, for the--to really mix a metaphor--grist for the shooting gallery mill.

Lage: [laughs] That will come off well in print!

Berry: Grist for the Andrea-Fischer bakeoff? Lots for everybody to dip their oar. Now, that's at least three metaphors, and all mixed.

Lage: Let's not alter this in the editing! There's too much visual imagery to those.

Was your accident and all--you had several surgeries, didn't you, during that year?

Berry: While in the hospital, I had about four.

Lage: Did that affect your presidency a great deal? It must have.

Berry: The month I was in the hospital it sure did! [laughs]

Lage: And Ed Wayburn was acting president?

Berry: Acting, yes, for I don't know, about a month. So they owe me a month, don't they?

Lage: Yes. You'll have to come back.

Berry: It burnt the outside of my head, not the inside. I carried on after that.

Lage: You think you took as active a role as you would have?

Berry: Yes.

Lage: Except for the month, I know.

A Husband-and-Wife Team on the Board

- Lage: I wanted to ask you: you're the first husband-and-wife team, you and Michele, on the board, together at the same time.
- Berry: Is that true?
- Lage: Francis and Marjory Farquhar, but they were never on at the same time. Ansel and Virginia Adams, but I think Virginia [1932-1934] was not on when Ansel [1934-1971] was.
- Berry: I can't confirm to you that either of those women were on the board at any time--
- Lage: Oh, they were. Marj [1951-1955] was asked to run after Francis [1924-1951] left the board. But how does that work, a husband and wife team on the board? Do you work together, do you work as two unrelated individuals, or--?
- Berry: Both. There are, frankly, times when, if you're already on the same side of an issue, you work together. That's not very frequent, though, because first, there aren't that many issues that get to the point where people are organizing around them. I don't really like to "organize" around issues with board discussion coming up. I feel you ought to formulate your views, state them, and not lobby the heck out of everybody.
- Lage: Before it comes before the board?
- Berry: Now, I of course violate that rule, but I would rather not lobby.
- Michele sees it the other way, which is perfectly okay. I can't say that's wrong; it's just a different style. We frequently do not vote the same way. We probably vote opposite as much as the average do, and sometimes with strong disagreement.
- Lage: Talk about friendships and differences over issues! Are these things you discuss at home, or--?
- Berry: Some of them. Some we don't.
- Lage: Are they basically conservation issues that you disagree on, or club management issues?
- Berry: Some of the most contentious issues in the club are in fact the management issues. In the nuclear fracas, we were on the same side. We talked about it frequently, because both of us were the targets of people shooting from outside, and you tend to connect

with those in agreement. On the management issues, yes, those would get discussed. We were both on the same side when people wanted to fire Wheeler. There were some conservation issues where we had disagreements.

Lage: I forgot about Les and Sally Reid as a husband-wife team on the board, but were they on at the same time?

Berry: No, Les was on [1976-1981], and then Sally was on [1984-1989].

Lage: And then I understand [board member] Joni Bosh's husband is a staffer now.

Berry: Yes.

Lage: Does that present any kind of conflict of interest?

Berry: Depends upon your point of view. There was a vote of the board on that very issue. It was determined by majority vote she did have a conflict of interest in the choice of Fischer's successor, because he or she would have a say in setting her husband's salary and working conditions. A similar issue came up over whether she could be vice president, and though no vote was taken, in that instance, a majority felt she had no conflict of interest, because it was more remote.

Lage: Because as vice president, what would be the conflict?

Berry: She would have no control over salary or anything of that nature. I was one who raised the issue about whether she should vote for Carl [Pope, for executive director]. I had no concern about what her vote would be; I knew it would be for Carl, which was fine with me, but I felt there was a conflict. I agreed also with the majority that she would have no problem being vice president. It really turns on some very narrow issues. Conflict of interest is not determined by vague or remote and hypothetical circumstances. It's more of a bread-and-butter issue.

The Centennial Campaign: Problems with Planning and Direction

Lage: I know we talked about the centennial campaign to a degree. We talked about whether soft money would drive the club. But we didn't talk much about the way the centennial campaign was conceived and managed, this joint committee of foundation people and board people. Do you have anything to say about how that worked or didn't work, does work?

Berry: Do you want me to say a few more things that don't get printed for a hundred years?

Lage: Yes, definitely.

Berry: First, the idea of a centennial campaign is good basically.

Lage: Whose idea was it?

Berry: The idea of almost anybody who could count. It was fairly obvious. One hundred years.

Lage: But it was the first time that a--

Berry: It was the first time, you're right! [laughter] You've got to wait another hundred, or ninety-eight!

Lage: The centennial could have simply been a celebration--

Berry: That's true.

Lage: --but instead, it became a campaign of a new sort, a new kind of fund raising for the Sierra Club, the large gift fund raising.

Berry: That was new. But why have a fund drive unless you try to get as much money as possible? That has always been our intention, to raise as much money as we could. Here was a dandy excuse for it. Celebrate a hundred years, talk about the next hundred. A fine idea, but the planning faltered almost from the beginning. The first outside consultant made some missteps, particularly in the views of some board members who ended up being closer to the centennial than others. I'm not speaking of any role I played.

Lage: Who was the first consultant?

Berry: I can't even give you the name. The planning, hopefully, was to include the Legal Defense Fund. But either because Rick didn't want it or because of these missteps I spoke of, or because their board didn't want to be closely tied to the club by joint fund raising, or perhaps all those things, they did not join in. There were differences of opinion arising from this. I was disappointed, but it didn't seem to me to be anything worth getting too riled up about.

Then there was creation of a centennial structure which certainly could have been clearer. The first centennial director had unclear lines for reporting. The structure itself was unclear. You had a committee jointly of the foundation and the board [the Centennial Campaign Planning Committee].

Lage: A small committee, was it not? A couple members from each organization?

Berry: Ultimately six or eight, so it wasn't all that small. They either sought and received but somehow got the signal they would be permanently in their positions, apparently on the rationale that this had to be seen through. .

Lage: Now, was this committee actually doing some fund raising, or just overseeing the staff?

Berry: They were overseeing development of the plan. And then there was a campaign committee in addition to this which was largely the same individuals [the Centennial Campaign Steering Committee], and several times, the charges to these committees were reformed. Particularly when [Marianne] Briscoe started reporting to our board, and--

Lage: She was the staff director of the centennial campaign?

Berry: Yes. Insofar as I could see, her reports didn't make clear what was being raised, and what not, and what was being spent and what not. Because the campaign was not, at least on paper, drawn with clear lines to distinguish it from ongoing, already existing fund-raising efforts. So there were immediately disputes: was it money raised as part of the campaign, or was it money coming in anyhow by reason of all the regular pre-existing efforts?

Lage: And then the campaign being credited.

Berry: Yes, the campaign being credited with it. Naturally, the fund raiser wants to report his or her particular end of things is doing incredibly well. In some instances, we were--if we hadn't been listening--told they'd raised \$2 million when there was really only \$1 million, because it got counted twice, two different people taking credit for it. I'm not saying there was a particular million-dollar gift, but stating a hypothetical example. I remember going through several meetings where what she reported frankly just mystified me as to what was going on. And I said so.

A point was reached where the more critical on the board thought it just wasn't working. Briscoe had to go.

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Berry: This situation caused the board to, in effect, tell Fischer to get on with it. But he temporized. He said, "Yes, she's got to go, but we'll make one last attempt to see if it can be saved," or

something of this nature. That led to doubts in the eyes of some board members, because they thought him indecisive.

Finally, she did go, followed by a round of criticism about Fischer's handling of the dismissal. Then there was a search, appointment of a new director [Tom Zeko], and evidently some form of disagreement between him and others overseeing the campaign over whether he was really the person to be running it day-to-day. So then he was let go, and there were disagreements about that.

Lage: And the reporting lines seemed to get fuzzy. Did Zeko report to Michael Fischer or did he report to the Centennial Campaign Planning Committee?

Berry: Both, but Fischer first. Part of the controversy had to do with who had done the firing. I never did quite absolutely get zeroed in on what all happened, but it became clear Fischer did have discussion with the campaign volunteer committee, and received in some form or another a go-ahead to fire Zeko. Whether or not he received actual directions to go do this was an issue of some dispute.

In any event, word got out this was going to happen before Zeko personally was told. A dispute then erupted over whether the volunteers had behaved properly. Our board felt the volunteer committee was undoubtedly the source of the leak and that this was inappropriate. This controversy came along at a time when we were being told by staff, including Carl, that meetings of this group were excessive, and too little was being accomplished. The expense was excessive and it was inefficient to have so many meetings.

There were protests from staff. For every meeting, they had to prepare rather lengthy documents to report what had happened since the last meeting. This took a lot of time, and the staff felt was an unneeded expenditure.

Lage: And this all came directly to the board?

Berry: All in one package? No. Things like this arrive in small packages, and after you receive a number of them, you perceive how big the total package is. These reports had been coming in for some time. Staff complained too many meetings, not enough gets done; a lot of expense and time spent disproportionate to return.

The board was aware of this, and lo and behold, the Zeko dismissal and excessive meeting problems arose from the same people who had more recently told the board they didn't know what they were doing because they were so green. So it wasn't a package apt to be received with the greatest favor. There was discussion and

some disagreement over all that, ending with the board's ready acceptance of what Allan Brown had been saying, that the committee should be cut down, its job being relatively complete anyhow. These sentiments of Brown, when reiterated by our board, were immediately branded by source affected as not an attack upon either that committee or those individuals, but an attack, of course, on the whole Sierra Club Foundation.

Lage: But Allan Brown was from the foundation?

Berry: Yes, ironic. There was the basis for a rift if somebody wanted to create one.

Lage: And did it get back on target? Did the rift not occur?

Berry: Oh, there were some letters sent and discussions at a couple of board meetings, where people had their differences. It all came along at a time when the foundation was planning a meeting in Scotland, after, the year before, having had a meeting in Costa Rica. To the frugal minds of some of the Sierra Club board members--

Lage: The green ones.

Berry: --this was a trifle excessive.

Lage: And who was president of the foundation at that time?

Berry: Downing. They were going to Scotland to elect their new president. Which is, if you have to travel abroad, a decent enough place to go, John Muir's birthplace. But the nub of concern was that, if you spend the money--even from the pockets of the trustees themselves--to go abroad, then there's less in the Sierra Club's tin cup. There were differences of opinion over this. Costa Rica got referred to as Costa Lotta.

Lage: [laughter] In one of your pieces, I'll bet.

Berry: It was anonymous. [laughs]

Lage: So then you had a new campaign director.

Berry: Yes. Bill Meadows.

Direct Mail and Other Fund Raising Efforts

- Lage: I was asking you about the expectation on giving by the board of directors; some volunteer boards are mainly organized to be fund raisers and give their own money to the organization.
- Berry: Yes.
- Lage: And what's the expectation with the Sierra Club?
- Berry: It's expected everybody gives within their means.
- Lage: Money, or time?
- Berry: Both.
- Lage: So if you're elected to a board, you have some obligation or expectation that you'll contribute financially?
- Berry: Maybe not in the minds of the voters or the nominating committee, but in the minds of everybody else once you get there. If you have the means to give, you should give.
- Lage: But I would assume a lot of people don't have the means to give.
- Berry: Most don't. But some give with enormous generosity even so.
- Lage: Roger Craver's name is up all the time, and I have no real sense of who he is, what he's done--I know he's been a consultant to the club--what--?
- Berry: Craver, Mathews, Smith & Company is an advisor on direct mail and other means of fund raising. They specialize in public issue groups like Sierra Club, Greenpeace, and some organizations not involved in conservation. Craver's done very well at this.
- Lage: So he's a direct-mail specialist.
- Berry: Amongst other things, yes.
- Lage: Is he located out here?
- Berry: His organization did--I'm not sure whether it still does--have a western office. He and his original organization are in Virginia, the Washington, D.C., area.
- Lage: When did he start acting as consultant?

Berry: He was involved before we went down to New Mexico for our retreat when Ted Snyder was president [1978-1980]. I remember discussion of Craver's views at that time. Whether or not he was in the same relationship then as now I don't remember.

Lage: Has he been beneficial overall, the programs he's suggested, guided?

Berry: Yes. During this last year, some question has been raised because the written arrangement with him is rather sparse on details, and a lot of money is involved. So there's been some effort to firm up those details, to be assured we get our money's worth. I'm not saying we did not before, I don't know. Certainly the program did well.

Lage: Does he actually write the materials?

Berry: Yes. Some is written by us, some by him.

Lage: Did he take any of the blame when the direct mail response fell off? Wasn't that during your presidency that the direct mail--?

Berry: It had been falling off. This was part of the controversy between the Andreaphiles and the Michael-followers.

Lage: But it wasn't something that Craver took any blame for; it was recognized as a reflection of the times? Is that correct?

Berry: I've forgotten whether anybody blamed him. They may have, but I think the consensus was that was a sign of the times. The whole direct mail program, you know, never really developed a return greater than about 2 percent if you were lucky.

Lage: Two percent of the forms would be returned?

Berry: Yes. We got a response on 2 percent. The rest of it then, I guess, is essentially junk mail for somebody, which always disturbed me, and increasingly so.

Lage: Because you get so much of it.

Berry: Well, I wasn't looking from a personal perspective. Just the unfortunate picture of a conservation organization using so damn much paper, 98 percent of which--or more--isn't doing anything but going into, hopefully, recycling. Probably some of it doesn't.

Lage: Probably most of it doesn't.

Berry: So yes, there is a concern there. And also, the inefficiency of it. It bothers me that you don't really make money on the first pass. You only make money if the people who join the club through that means renew. I'm not a fund raiser, and not expert in those things, but it's disturbing to hear a large proportion of the money raised in the first year goes to pay the costs of having raised it. Now, that's not at all unusual apparently in fund raising, but I find it disturbing.

Lage: Was most of that direct mail that he did directed towards increasing membership? There's also a lot of direct mail that comes from the Sierra Club for donations, aside from membership.

Berry: He has a finger in both pies, I believe. Whether he writes all the stuff or not, I couldn't tell you.

Lage: Did you have an opinion about the telephone campaign? That seemed to raise some hackles.

Berry: From the beginning I had substantial doubts about it. I just didn't like the idea of hawking things that way. It has a commercial aspect I didn't like. On that kind of issue, I tend to be a conservative.

Lage: Is that still going on? Do you know?

Berry: I don't know what this year's budget specifically says on that point. I'm sorry, I just don't have that detail in my head.

Lage: Anything else about the campaign that you want to talk about?

Berry: Which campaign?

Lage: The centennial campaign.

Berry: Of course, we hope it does well. It's a little surprising it's not done better. I would have thought people with considerable money and a belief the environment is well worth saving and the Sierra Club can do the job would be very generous. There aren't as many people, at least so we've learned, as we would have hoped.

This is particularly true among some of the older Sierra Club.

Lage: You mean among your own members?

Berry: People who were members when I joined. They have not yet been as responsive as I would expect. We're working on that right now; they may prove yet to be good donors.

Lage: Are they alienated, would you say, or just not givers?

Berry: In some instances, alienated. At least one former board member has a view rather contrary to what the club is doing now.

Lage: So they're objecting to issues, I assume.

Berry: Yes. Some of it might be members before 1950, now rather elderly, are living off their investments. Perhaps what you see then is a bequest. That may be one answer. And of course, the numbers are small. You're talking about a club that in 1950 was, what, 5,000 or 6,000 members? So there are not that many of them.

Lage: Do you, as part of your role as a board member, help with the fund raising?

Berry: I work on the issue we just described.

Lage: The longer-term members.

Berry: Right.

Lage: Do you do that on your own, or is there a staff member that--?

Berry: There's a staff member, Jim Blomquist, who's working on that.

Long-Range Planning, RVP Forum, and Club Leadership

Lage: I wanted to get your views on the issue or the idea of long-range planning. I know Michael Fischer stressed it, and Denny Shaffer seems to stress it. What do you think about the place of long-range planning?

Berry: Oh, I don't think they stress it more than anybody else. They talk about it a great deal.

Lage: Is it a code word for something else?

Berry: No, I think it's a perfectly appropriate subject matter. If any controversy surrounds it, it's that the amount of time in board meetings in the last two years devoted to that subject has been far in excess of what some people would have thought appropriate to that subject in competition with others. And to the degree there's any controversy, that's where it lies. Nobody disagrees about the necessity of long-term planning.

There has been need for discussion of what is planning. If you accept the broadest interpretation, it subsumes the subject matters for many other committees. Planning then becomes a way and means committee. Some of the more current planning efforts by Denny's committee threaten to preempt existing committees' efforts to plan.

Lage: Existing issue committees.

Berry: Yes. Planning isn't done only by a single planning committee. Everybody plans. And so you have to come to some common definition of how far his effort should reach. It should not push other committees out of the picture.

Lage: Even though you appointed Denny Shaffer as vice president for planning.

Berry: Yes. No, it sounds like I'm criticizing what I did, the way you put that question.

Lage: [laughs] No, I'm just trying to goad you.

Berry: Well, all right, I'll let you goad me. I think he's done a good job with planning but the amount of time taken up before the board discussing his various proposals has been greater than we really could afford, given the other things we must handle. But if that's the worst of the criticisms, it's relatively minor, isn't it?

Lage: Yes. Okay, so much for long-range planning. We talked about your interest in exploring the use of subsidiaries as kind of a new way of organizing the club. We may even have covered this, but I couldn't remember: did we talk about whether you think there is going to need to be major reorganization of the volunteer structure?

Berry: Yes, we did.

Lage: We covered that?

Berry: I thought we did.

Lage: I know we did talk about the council. The regional conservation committees, are they still functioning well?

Berry: Yes. Their agendas have changed over the years, mostly broadening. The RVP forum--the collective group of the regional vice presidents meeting together--has been a very beneficial thing. It, in effect, has become a national conservation committee, and it has developed some of our best people. It has given people on the way up an

opportunity to think nationally, and has cleared away a lot of potential regional differences. The issue committee caucus has done well too.

Lage: So there's an issue committee caucus, an RVP forum--

Berry: Yes, and then the two of them meet together sometimes. So we keep proliferating. In those instances, I think that's all beneficial.

Lage: Do you get a different kind of board member that comes up through that mechanism than who comes up through the council?

Berry: People from that end tend to be more oriented toward the conservation agenda, wanting actively to do things themselves. Council people sometimes have more staying power for bureaucracy than RVP chairs. And people from the council tend to be more involved with the internal affairs of the club--well, of necessity, because that's the charge to the council. Because the subject matters they deal with are different, one being conservation, the other internal affairs, you tend to see somewhat different types come up from each. Good people on both sides.

Lage: You have to deal with both of those aspects at the top.

Berry: That's true.

Carl Pope as Executive Director: Politically Astute, Knowledgeable about the Club, and Tough

Lage: I wondered if you wanted to say something about Carl Pope, and his becoming executive director, his strengths or--is it too soon to--where do you think he'll take the club?

Berry: I think Carl will do very well. Carl is very smart, has a good vision of the club, a good understanding of its mechanisms. He has a keen insight into issues. He is capable of cutting through to the core of issues very well. And so far, I would give him very high marks. He inevitably will, simply because he's human, not do as well in some areas as somebody--I'm not speaking of myself--would like.

It's an extremely difficult job. It takes somebody with management skills, which he has with his prior experience. Greater skills will come with growth in the job. He is individually tough. This quality was not as strong in some prior executive directors.

It may sound strange to say but Brower was not tough in sticking with the difficult problem of managing the club without shortcuts.

McCloskey was criticized for not delegating enough, and that was thought by some to reflect a vulnerability. Both McCloskey and Brower had, in their own ways, the same level of brilliance and insight Carl does. Comparatively, Carl's got something of an advantage in longer service on the staff before becoming director.

##

Berry: Carl is more attracted to the political side than either Brower or McCloskey.

Lage: The political side externally, or the politics of the club?

Berry: No, the political side externally. Dave was drawn to the public figure aspects of the job. He presents a simple but understandable vision. Mike was and is one of the best conceptual thinkers ever in the whole conservation movement. You should see, for example, what is said about him in the book by the Wise Use people, Trashing the Economy. They give him about as high marks as to any conservationist. Some of that, of course, is tongue in cheek, but it's obvious they regard him as one of the really brilliant thinkers in the conservation movement, and I would agree with them.

Carl can give a good speech. He's not a Dave Brower to rouse the crowd but a good thinker. Really nobody's the conceptual thinker McCloskey is, so he's behind Mike there. But he makes up for this with his incisiveness, and certainly is a good thinker all on his own. So I think he's a very worthy successor to the two of them in the areas of their greatest strengths. He won't be quite the same; he will be perhaps not quite as good as they in the individual areas where they really reigned supreme, and still do. But he will provide his own substitute for that that will be equally good, equally effective.

If there's any danger with Carl, he may want to get more deeply involved on the political side than might at times be safe.

Lage: In terms of endorsing candidates, or going beyond that?

Berry: One example: We endorsed Clinton's economic package based on what were, at the time, some pretty good promises. Provided there had been fulfillment of those promises, it would have been a good deal.

Lage: The original package that included raising charges for grazing and mining and--?

Berry: Yes. The error, if there was one, was in not assessing Clinton well enough to know he would fall away from those promises a little too easily. I can understand, viewing all the political problems he had, why he did ultimately, but then you also have to question why he himself didn't see he was making promises broader than he could immediately fulfill.

Lage: He fell away from them almost immediately.

Berry: It was rather quick. Of course, he'd had the other foul-ups in his administration which might explain some of it. There was something of a mismatch. But both sides appeared to have misgauged the ease with which these promises could be fulfilled.

And I'm not blaming Carl for this, because there was a committee--the 100 Days Committee--which took these positions on behalf of the club.

But I think there's some danger ending up as it has. It may harm you with your own members. It may harm your public image. We won't really know until all this is played out, but I perceive some dangers in being a little too close to the political process. We, you see, had taken the role--and I'm glad we did; I was an enthusiastic supporter of it--of being the only big, almost the only conservation organization to really get behind Clinton in the election. That was all to the good. And accepting his later promises may have been natural for us. But we should have had more caution about whether he could really fulfill them.

Lage: Is it correct that the club has some difficulty, or at least a different kind of difficulty, when the party or individual they have supported comes to power?

Berry: Yes.

Lage: It's easier to be in opposition, it seems.

Berry: And Carl has been most alert to this, and given it thought. I criticized one of his political calls here, but let me say even before Clinton was elected, Carl was talking about how it would change our position, we would have to become used to working on the inside and maybe taking a few inside lumps. Playing as insiders, the difficulty is how still to lead. Carl has given thought to this, and some excellent speeches describing the new position we're in.

Lage: Now, who does he give those speeches to?

Berry: Oh, I've heard speeches at fund-raising efforts and to the board.

Lage: Because it seems more something of interest to those who are committed rather than a topic that would attract people to the club. Is it hard to attract people to join the club at a time when you're an insider group?

Berry: Carl is acutely aware of a new role trying to lead a friendly administration, more difficult than bashing one obviously hostile and a proponent of false values. So Carl's strong political suit is maybe what we need at this point.

Lage: Will he, or does he, operate well with the board and with the sort of culture of the club in the internal arena?

Berry: All executive directors ultimately get criticized for not paying enough attention to volunteers. No matter who is executive director, this has been a charge, and always with some justice. Carl in the past has had the same charge leveled at him from time to time by board members. Since it's common to all five executive directors maybe that's just part of the job. You're not going to get a strong leader, which you need, without having some of that. The question is, is it under control? In Carl's case, I guess yes.

Lage: He knows what he's involved with, at least.

Berry: Yes, he clearly does. In most instances where he seems to go beyond where the volunteers might think it's their say, it hasn't yet been serious. It's been from time to time something worth discussing, but nothing remotely like the Brower situation. There wasn't a leash made that would hold Brower.

Lage: Were outside candidates looked at for the new job?

Berry: Yes.

Lage: And did you get an array of good candidates, or is it becoming a hard job to fill?

Berry: There were differences of opinion about this. I thought there were good candidates. When you're choosing a new executive director, and I've been in on the choice of all except Brower, there's always differences of opinion. Do you want some already towering figure--"Well, let's get Bruce Babbitt," or, "If only William O. Douglas would retire from the court to take the job," this sort of talk. That view gets expressed, not often by a majority, but there are adherents to that approach.

You'll also, and this particularly was true when they were selecting Wheeler and Fischer, have people who stress the difficulty of managing the club. "We need a good manager, somebody

to whip that staff into line." Or, "Think of the financial problems we have. We need primarily a financial manager. You can't delegate that; someone right at the top must know finances well." That desire may have been part of the problem in choosing Fischer and Wheeler. There was ambivalence on the part of the board in exactly what they wanted.

That ambivalence is partly built in. You want an executive director to lead all sorts of disparate elements of the club, including the financial one. And that one is always the most troublesome. If you fail to make your budget there's just all sorts of pain and terror and--

Lage: But if you have a good chief financial officer, wouldn't that take care of it?

Berry: In my view, it does. You'll still have pains, and difficulties, and the executive director will still have to make some choices. But there's always the false expectation or hope by some that the executive director can find some magic way of resolving these problems--and blame if he or she fails.

It's like the position our governor and our president are in right now. They have to make painful cuts, to deny people, to fire people. Those things are never easy. And so the executive directorship is sort of a junior version of all those problems.

Lage: Were there other strong candidates from the outside? Or inside?

Berry: Yes, there were. It ultimately came down to two. Once the two were presented to the board, the choice was rather obvious. Some, as soon as it was clear Fischer would go, wanted Carl. Both on his own merits, which were considerable, and on the supposition that things had gone wrong in the rather short terms served by Wheeler and Fischer because they came to something they didn't know. Carl knew the club; he knew our tribal ways and would be able to deal with them. The latter is another way of describing what I think is his toughness. He's a tough cookie.

Lage: That's a good way of putting it. He can withstand all that--

Berry: His knowledge of the club and his toughness will serve him well. I hope he's executive director for a long time. No, he's not Bruce Babbitt--and nothing against Bruce Babbitt; I'm happy to see him secretary of the interior. But I personally don't think you need a towering figure to come run your club for you.

Lage: You'd probably just be paying him as a figurehead.

Berry: You might well be, or whoever came that way might have strong ideas of their own. "After all, why am I a towering figure? Because I can tell you what you need to do here, Sierra Club?" That could happen, and then you'd be in trouble. I've had dealings with Carl on the legal end involved in institutional issues; negotiations with the foundation and SCLDF on various other subjects. I'm pleased with his very quick pick-up. I don't have to explain much law to him. If I give him the broad outlines, he will generally put that away in his memory and come out with some fairly solid judgments.

Lage: Will he represent the club well in the public arena? Press conferences, and speeches to outside organizations, that function of the executive director?

Berry: I don't know. I just haven't seen enough to be certain on that point. He's not a Brower, he's not guaranteed to get everybody standing on their feet yelling. But few people can do that. McCloskey does that far less than Brower, but he's much better at other things.

Lage: Well, you're never going to get all the best features of each one of them in one person.

Berry: No, you won't. We're lucky Dave keeps his contacts with the club. He provides that force, that inspiration, when we need it.

Lage: Does he still--he's not alienated, then?

Berry: Well, he's not alienated all the time. [laughs] I've gone through several phases of being very annoyed at him during my life. In fact, hugely annoyed at him. And then very friendly. That's of course partly me, and partly Dave. Dave reacts to individual circumstances, he gets angry; he quit as executive director and director of the board, in a huff, both times. "You're all doing it wrong, I'm not going to waste my time with this." But he's always back. He's back giving an inspirational speech, as at the last board meeting.

So we still have Dave to call upon, and Mike is still there putting together his good long-range thoughts.

Continuing to Serve the Club

Lage: Before we finish let me ask if we have missed something that you would like to comment on, or reflect on?

Berry: Along what line?

Lage: Anything. I'm giving you carte blanche. Or maybe after you've reviewed the manuscript, if you think we've missed something, I'd like to have that.

Berry: I hope to continue to serve the club, primarily as a lawyer. That's where I can probably make my biggest contribution at this point.

Lage: Does that mean not as a board member, or as a board member and a lawyer?

Berry: I guess it would all depend upon circumstances.

Lage: I would think the appetite for being a board member would diminish. It sounds not always fun.

Berry: Oh, it isn't, and anyone on the board for long who tells you they enjoyed all of it, or never thought of letting it all go, is either unaware or kidding you. No, there are some very dark moments when you say to yourself, "My god, how could things have ever gotten like this?" No, you hang on if you feel you're making a contribution and it's important you be there.

Lage: You're providing something that someone else wouldn't.

Berry: I think I've made a contribution. I think I've saved the club from a number of elephant traps over the years, and I'd like to continue doing that. At times the board doesn't look closely enough or at the long-term implications, in my judgment. At times there are some real squeakers, where, by narrow votes, we'll not do something which could have been disastrous.

Lage: Everyone seems reconciled to the one year off the board after serving two terms. Were you against having it two years off? [Club bylaws now require a year's absence from the board after two consecutive three-year terms before attempting reelection. A bylaw was proposed, but defeated by the membership in 1992, which would require a two-years' absence.]

Berry: How did I vote? That will tell you whether I was against it. [laughs]

Lage: I don't know, I didn't look it up!

Berry: I probably voted against it.

Lage: I thought that you'd remember!

Berry: [laughing] Either that, or I might not have voted.

Lage: Well, actually it went to the vote of the electorate, didn't it? Of the membership?

Berry: I thought you were speaking of the board vote. I know that issue was voted on by the membership, and I'm sure I voted against it there. What I'm unclear about is exactly how I reacted when it was put to the board. I probably voted to put it on the ballot, but voted against it's being passed.

Lage: Because you don't think it's a good idea, or not a necessary idea?

Berry: There are arguments in favor and against it. The argument against somebody continuing and in favor of forcing them off for a period of time to let them take their chances on reelection appears to be founded on a notion, which is correct, some people should get off. And democratically, to do that you have to get rid of everybody. It's an insoluble problem in a way.

Lage: Or the electorate, after all, could vote against them.

Berry: That's right. The electorate at times chooses all new people, and other times returns people who have been there before, and makes right choices in both situations. The reverse case happens too.

Lage: And it's hard to explain why elections go as they go, it seems.

Berry: Sometimes passions sweeping the country will explain some election results.

Lage: Like election of women; is that part of it?

Berry: That's happened a couple of times. If there are six men running and two women, there's a greater chance of the women getting elected. A minority person running for the board is, if they're alone, almost absolutely assured of getting elected.

Lage: Which hasn't happened very often.

Berry: It's happened several times. So, to those extents, elections in the Sierra Club are somewhat governed by outside political developments. But for the most part, it's probably based on the record of accomplishment, the relative degree somebody is known to the few insiders who attend board meetings regularly and see who's making sense and who may not quite as often--all of those judgments end up as votes.

Lage: Is there informal campaigning that goes on?

Berry: Sure. Not much of it, because it's frowned on, but certainly some. And a degree of grandstanding, of course.

Lage: [laughs] Of course. It wouldn't be the Sierra Club without it. Okay, I think we should finish up, and if you come up with any other great insights, we'll add them in later. Maybe we'll be back for stage three of our interview twenty years from now.

Berry: Maybe.

APPENDICES

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APPENDIX A
INTERVIEW OUTLINE

May 25, 1993

TO: Phil Berry

FROM: Ann Lage

We are scheduled to begin phase II of your oral history next Wednesday, June 3 at 8:30 pm. (What an ungodly hour to begin!) I wanted to give you some idea of what I would like to cover and encourage you to add to this list. I am enclosing a copy of the contents page from your last oral history interviews, which took place in 1981 and 1984.

I. 1984-1993

I'd like to begin with a broad look at the Sierra Club from your perspective in the years since your last interview, including the following areas:

Staff leadership: a succession of executive directors, including McCloskey's move to chairman; Doug Wheeler; Michael Fischer; Carl Pope. Role of other significant staff members--Doug Scott?

How has the relation of staff to volunteer changed?

Volunteer leadership: the relationship between the various levels--chapter, board, issue committees, council, regional vp's; the quality of leadership; the degree of bureaucratization.

The environmental agenda: What have been the trends in the club's approach? Has there been a change in the significant issues or in the "purity" of the club's positions?

What has been your major focus?

The strength of and balance between various forms of "attack"--legislative lobbying, litigation, education, political action.

Effects of membership growth and fundraising needs.

II. Your second term as president, May 1991- May 1992--External Issues

A lot of the above areas are illustrated in the events of your presidency. Be sure to add anything I may have overlooked, but I want to be sure we talk about the following:

SCLDF--your assessment of the difficulties between the two organizations and the attempts to resolve them. (Since this was one of the main purposes of your presidential year, let's look at this topic in some detail.) What has happened since May 1992, and where is the club's legal program headed?

SLAPP and SLAPP back; other legal cases for the club?

Elections--the decisions involved in how to approach the 1992 presidential campaign.

Your role in environmental issues as club president--energy, ancient forests, the Arctic, others? What is the balance between top staff and top volunteers in these key issues?

Sierra Club Property Management, Inc. and the National Headquarters Associates. These entities have not yet been explained by any of our interviewees.

III. Your presidency--Internal issues

How you saw your role in club management: your role on the board and vis a vis the executive director and other top staff.

assess major leaders on the Board

define or illustrate your leadership style

problems with Michael Fischer and Andrea Bonnette

causes and effects of the club's financial difficulties during your year as president

the Centennial campaign--management, difficulties, implications for club priorities and planning

problems with Atlantic Chapter

Your ideas for solutions to the "perplexing problems of management."

SIERRA CLUB LEGAL DEFENSE FUND

Announcement of Legal Defense Fund
change of name
July 15, 1997

Ms. Suzanne B. Riess
700 The Alameda
Berkeley, CA 94707-1614

Dear Ms. Riess,

Because you are a key supporter and loyal friend of the Sierra Club Legal Defense Fund, I am writing so you will be among the very first to hear of an important development. We are changing our name. Beginning officially on August 1, we will be known as Earthjustice Legal Defense Fund.

Why the change? Because, thanks to the support and generosity of people like you, we have outgrown our existing name. In 1971, our organization was established by a small group of lawyers who wanted to provide the Sierra Club with top notch pro bono legal help. I know about those modest beginnings because I was one of those founding attorneys.

Twenty-six years later, I chair the board of the Sierra Club Legal Defense Fund, an organization that now plays a vitally important role on behalf of the entire environmental movement. Our skilled and committed attorneys still proudly represent the Sierra Club, but also serve several hundred other clients, including virtually all of the major national environmental organizations. Our clients have included Greenpeace, the National Audubon Society, Friends of the Earth, Natural Resources Defense Council, Environmental Defense Fund, The Wilderness Society, and Defenders of Wildlife. We also represent hundreds of regional and local groups.

We truly have become "the law firm for the environment," the organization at the very center of the environmental community's efforts to use the rule of law to protect our land, air, water, endangered species and natural resources, our children and our communities. We think, and I hope you agree, that our new name more accurately reflects our true role in the environmental community.

Our mission will remain the same as always -- to protect people and natural resources by strengthening and enforcing environmental laws -- but our current name no longer accurately describes that mission. Even though the two groups have always operated independently, sharing the name of the Sierra Club -- one of the proudest and most respected names in the environmental community -- has certainly benefited our organization. Especially in our early years, it drew attention and support to our work that might not have been there without that association.

But, two independent organizations using the same name has also led to more than a little confusion. In introducing our organization to courts, agencies, policy makers and

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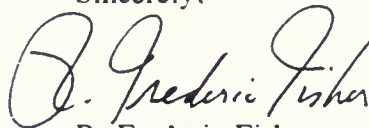
potential supporters, we have found ourselves starting by explaining that we are not the Sierra Club itself, but rather a public interest environmental law firm that represents the Sierra Club and other groups as well. With a proud record of accomplishment that your support helped create, the new name will provide us with a real opportunity to call more attention to the Legal Defense Fund and to reach out even more effectively to supporters like you.

We're a financially conservative organization of aggressive, effective attorneys who keep a close eye on the bottom line. So, you won't be seeing any expensive marketing campaign to "re-launch" our organization. What you will see are public service advertisements which have been produced and published for us free of charge. We also will be taking care to make sure current and potential supporters recognize that Earthjustice Legal Defense Fund is simply a new name for the Sierra Club Legal Defense Fund. We'll be counting on you and other existing supporters to help spread the word.

You know that it's essential for the environmental community to use the rule of law to level the playing field against powerful interests. And you understand how vitally important the Legal Defense Fund's work is to safeguarding some of America's most precious natural resources, including clean air and clean water, and to defending our most treasured places, such as Alaska's Tongass National Forest, Yellowstone National Park, and the Florida Everglades. With your support, our organization has been -- and will continue to be -- at the center of virtually every major environmental issue.

I want to thank you for all you have done to help our organization advance its work. As we enter an exciting new chapter in our history, we'll be counting on your ongoing commitment and dedication to the Legal Defense Fund.

Sincerely,



R. Frederic Fisher
Chairman, Board of Trustees

P.S. One reason why we're so confident that changing our name to Earthjustice Legal Defense Fund will be good for our organization and good for the environmental movement is the unfailing support we have had from the Sierra Club every step of the way. I hope you'll take a moment to read the enclosed note from my colleague Carl Pope, the Sierra Club's executive director.

SIERRA CLUB



85 Second Street, Second Floor
San Francisco, CA 94105-3441
415 • 977 • 5500

Dear Friend,

In the early 1970s, Phil Berry, Don Harris, Fred Fisher and a few other members of the Sierra Club's legal committee got together to organize the Sierra Club Legal Defense Fund to provide the Club with pro bono legal work.

From those modest beginnings has grown one of the most vitally important environmental organizations in America. You're a strong supporter of the Legal Defense Fund. So, I don't have to tell you how much this remarkable organization has done for the environmental movement.

Suffice it to say that, on virtually every major environmental issue, our community looks to the Legal Defense Fund for legal support and leadership. As the executive director of the Sierra Club, I can tell you that we have relied — and will continue to rely — on the Legal Defense Fund's able team of skilled, experienced and dedicated advocates.

You have played a pivotal role in helping the Legal Defense Fund build its strong track record and reputation. So, you must be especially proud as the organization makes the transition to a new name more reflective of its current standing as the law firm for the entire environmental community.

We've pledged the Sierra Club's ongoing friendship and support to Earthjustice Legal Defense Fund. I trust and hope you'll do the same.

Sincerely,

Carl Pope
Executive Director

Date: Fri, 05 Sep 97 18:23:51 PST
 From: postmaster@sfsierra.sierraclub.org
 Subject: SCLDF Namechange announcement

*****Global Message*****
 THIS MESSAGE IS AN INFORMATIONAL MESSAGE BEING SENT TO SIERRACLUB CCMail USERS.
 PLEASE DO NOT SEND A RESPONSE TO THIS MESSAGE. Thanks, Postmaster

September 1997

To: All Sierra Club leaders
 From: Carl Pope and Alex Levinson
 Re: Legal Defense Fund change of name

As many of you are aware, the Sierra Club Legal Defense Fund has now publicly announced that it is changing its name to Earthjustice Legal Defense Fund. The Legal Defense Fund took this step because it concluded that its old name unnecessarily confused the public -- by suggesting that the Legal Defense Fund was a part of the Sierra Club -- and no longer accurately describes its mission to provide legal representation to virtually all organizations that use the courts to protect the environment. The Legal Defense Fund is implementing its name change according to the terms of the license agreement that governs its relationship with the Club. As part of that agreement, the Club will shortly be sending a mailing out to all Club members announcing the Legal Defense Fund name change.

I know that some of you will welcome this change because it will remove a source of confusion about the two independent organizations. Others may be disappointed about the name change. The Club's goals here are to help the Legal Defense Fund remain a potent legal fighting force for the environmental movement and to ensure that the name transition proceeds smoothly, without harm to the Club or LDF from negative publicity mischaracterizing this as a "divorce" or in any other negative manner.

The Sierra Club and Legal Defense Fund have enjoyed a remarkably productive partnership, rooted in our mutual history, common goals, and the many close, warm ties between Club activists and LDF public interest lawyers. The best parts of that relationship will continue unchanged -- the frequent LDF legal representation of Club chapters and groups and other entities, the annual level of legal services provided the Club by the Legal Defense Fund, the ease of working together because we know each other so well, our typical closeness within the environmental movement on issues of policy and process. Club activists will continue to work directly with local LDF lawyers concerning environmental legal issues.

For all these reasons, the Sierra Club will help the Legal Defense Fund make the transition to the new name and will continue to work closely with it on conservation legal issues.

The Sierra Club and Legal Defense Fund are both organizations that pride themselves on the boldness of their vision and aggressiveness of their actions on behalf of the environment. With the full support of the Club, the Legal Defense Fund has taken a bold, aggressive step which we hope will prove to be one that helps both organizations and their ability to protect the environment.

Phil Berry's response to a controversy over a 1986 Sierra Club ballot measure on nuclear war issues

BULLETIN OF THE SIERRA SCIENTISTS

Scientific Advice to Club Leaders for Aid in Their Decisions

Vol. 1 No. 1

REPORT OF THE COMMITTEE ON THE PARABLE OF THE SMALL FISH

ABSTRACT:

Cartoon comprising part of political demand is analyzed. "Naive subject analysis" is attempted and disregarded as unproven method. Traditional methods are used to interpret meaning of cartoon and three alternative but not inconsistent interpretations are offered.

THE PROBLEM:

Some Sierra Club leaders have received, in the most recent daily transmission of views by a Board candidate, a political demand which has left many perplexed. The printed part of the communication appears to present views already heard again and again and again and again. The attached cartoon, which is part of the communication, appears to present something new, but its meaning is in doubt. Owing to the need to meet deadline for a response within five days, a special scientific panel was quickly assembled by the BULLETIN OF SIERRA SCIENTISTS to interpret the cartoon.

MATERIALS AND METHODS:

The parable of the small fish is presented in four pictures on the last page of the attached communication entitled, URGEDT (sic) MEMORANDUM. The story begins with the first frame in which small fish is alone toward the right hand margin and facing to the left. The second frame or picture shows small fish progressing to the middle for a meeting with a smiling, much larger fish. The third picture shows small fish attempting to swallow the larger, no longer smiling fish, which displays a blank look of either surprise or indifference. The final frame shows small fish alone again, appearing in identical size as in the first frame, but moving even further to the left.

Our panel at first attempted a process known as "naive subject analysis" which has gained some currency at an institution close to a large inland body of salt water that unfortunately has no fish. However, as applied, naive subject analysis yielded only naive, subjective and obviously simplistic answers ranging from "big fish always lose" to "small fish always get their way." The panel felt these answers failed to take account of all the evidence and the method was found wanting. It therefore was disregarded in favor of traditional, sophisticated, and thoroughly

scientific techniques, grounded on careful observation and logical deduction. The results were considered by a peer review committee.

CONCLUSIONS:

In depth analysis yields three possible interpretations, all consistent with the evidence and not inconsistent with each other:

1. Small fish demonstrates a general tendency to the left which will eventually carry it out of the picture despite initially friendly and ultimately at least neutral reaction by larger fish.
2. Small fish demonstrates aggressive tendency by attempting to bite off more than it can chew and obviously fails at this, because at the end small fish shows a distinct lack of growth.
3. Small fish by chance attracts large audience which it ultimately loses by opening its mouth too extensively.

We are grateful to our panel for meeting the deadline required to enable club leaders to formulate their responses.

APPENDICES

1. URGEDT MEMORANDUM
2. Cartoon setting forth parable of the small fish.

URGENT MEMORANDUM

TO: Signatories of the "con" ballot statement on funding the new priority of **preventing nuclear war/ending the arms race**, designed for distribution to Club leaders and publication in Sierra Club newsletters and in Sierra [Anne Ehrlich, Joe Fontaine, Michele Perrault, Denny Shaffer, Ted Snyder, and Douglas P. Wheeler]

FROM: *Dennis Willigan*, 1986 Sierra Club Board of Directors Candidate

DENNIS WILLIGAN

DATE: 19 March 1986

SUBJECT: Your decision to issue a public declaration that contains misleading, false and possible libelous information regarding me, two other 1986 Board candidates (David Brower and Madge Strong), and two respected Club employees (Daniel Moses and Steve Rauh)

On 20 January 1986 I hand-delivered an eight-page memorandum to the attorney representing the Club on this general matter. Copies were made available by a Club staff person at my request to the Board representatives attending a 20 January meeting at Club offices on 730 Polk Street in San Francisco. Michele Perrault, Denny Shaffer and Douglas P. Wheeler, signers of the "con" statement were present. This meeting was requested by Club members David Brower, Daniel Moses, Madge Strong, Steve Rauh and myself. We were

represented by legal counsel.

We had requested that this meeting be held approximately a week earlier to try to ensure that no copies of the "con" statement you signed would appear in Club newsletters or in Sierra. We requested this meeting shortly after we discovered the possibly defamatory nature of your "con" statement. Our request for a rapid meeting was denied and we were required to meet at a later time on 20 January 1986. In the meantime, while we were being kept on hold, the text of your "con" statement appears to have read over the telephone to certain newsletter editors and others. For example, I was told that it was read over the telephone to the Board member from my home state of Connecticut and then apparently passed on by her to the local newsletter for publication. It was eventually published in several newsletters despite our best efforts to prevent that from taking place and thus to protect each of you and others from possible litigation.

Subsequent requests for [1] corrective action to be taken to retract the misleading, false and possibly libelous information contained in your "con" statement, and [2] to delay the 1986 Board election and appoint a mutually agreed upon, independent, impartial third party to utilize principled negotiation along the lines of what is known as a "one-text procedure" were denied by the Club's President and the Board.

I believe that the publication in several Sierra Club newsletters around the country and the mass distribution on a separate basis at Club expense to thousands of Club leaders of your "con"

statement was false and unjust and possibly irreparable damage to my good reputation. I have undertaken numerous good faith efforts to [1] restrain your action, and, then failing that, to [2] seek to undo its harmful and unjust effects prior to the 1986 Board election. Thus, my conciliatory efforts and those of others to protect you from possible future litigation, that could lead to very substantial compensatory and punitive damages, were rejected.

Thus, unless you inform me otherwise **within five working days**, I will conclude that [1] you are willing to stand by the full text of the statement you are alleged to have signed and [2] you are fully prepared to assume whatever legal liabilities the publication of your views in Club newsletters and mass distribution to Club leaders may entail. In signing the "con" statement you agreed to permit Sierra and Club newsletters to publish it.

If you read the "pro" ballot statement that I helped to write, you will see that in stark contrast to your "con" statement it sticks very closely to the issue of the ballot proposition. The "pro" ballot statement accurately quotes Club leaders Michael McCloskey and Michele Perrault in a very favorable and approving manner. Unlike your "con" statement, the "pro" ballot statement is not used to deviate from the issue of the ballot proposition and to seemingly turn it into an illegitimate vehicle to attack **by name** particular 1986 Board candidates or other loyal Club members.

Finally, the "pro" statement is endorsed and signed by two

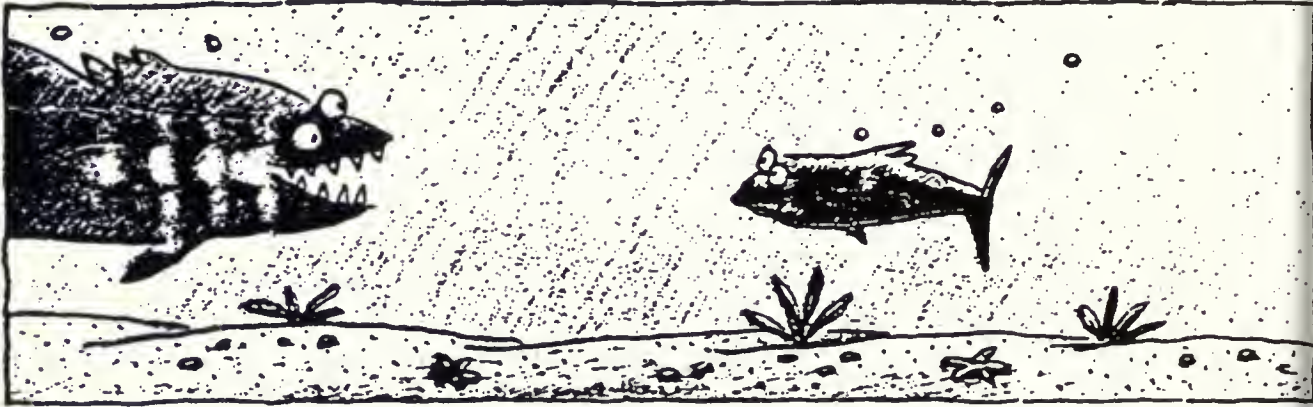
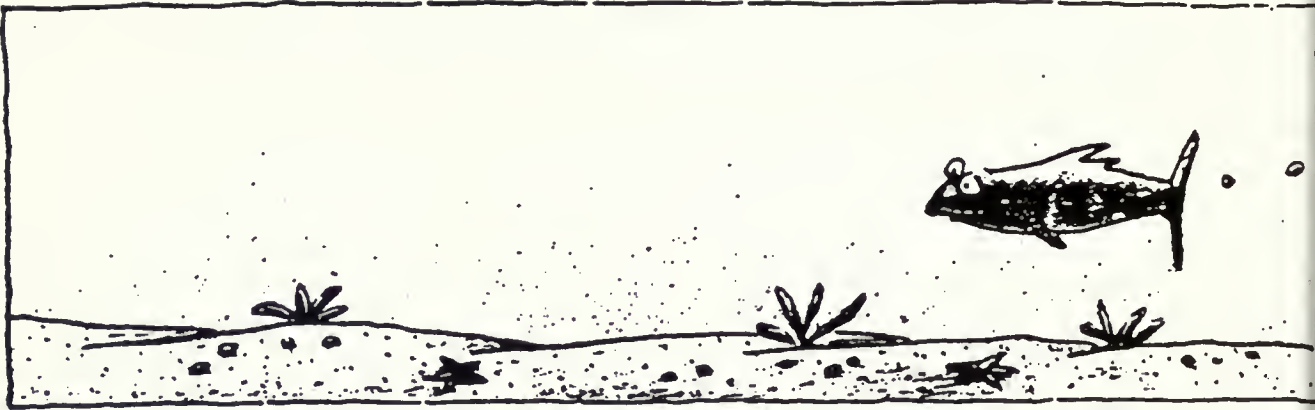
Nobel Prize recipients (Lee J. Bowerling, former chairman of the U.S. Atomic Energy Commission and a chemistry Professor at the University of California; and Bernard Lown, co-president, International Physicians for the Prevention of Nuclear War, a cardiology professor at the Harvard School of Public Health), Mrs. Anne Brower (spouse of perhaps the best known living environmentalist, David Brower, who was prevented from signing on his own behalf by an apparently arbitrary and capricious action of the Executive Committee of the Club's Board), John Birks (co-discoverer of the theory of Nuclear Winter, and director of CERES at the University of Colorado), Arlene Blum (one of the world's most famous mountaineers, author of Anapurna, and an environmental biochemist), and Steve Rauh (perhaps the best known Sierra Club grassroots activist working to prevent nuclear war and end the arms race, editor of the well-respected San Francisco Bay Area Yodeler, and co-founder of the influential Conference on the Fate of the Earth).

The "pro" statement that I helped write along with Madge Strong and Steve Rauh was done in a very professional manner, presenting an objective, persuasive case for funding the Club's new priority on preventing nuclear war/ending the arms race without engaging in the type of unfair personalistic attacks on 1986 Board candidates and other loyal Club members found in the "con" statement you signed. Reasonable and impartial people can see the difference between the positive, objective style of the "pro" and the negative style of the "con" statements independently of how they might feel about the ballot proposition itself. The style of your "con"

statement assessment were well under scrutiny. Next, and only to replicate this finding yourself using 'naive' subjects.

I hope you will reflect on this very serious issue and **immediately** offer possible avenues of redress to me and to the others whose good reputations I believe you may have irremediably harmed. At a bare minimum and as a starter, I may require public retractions printed and sent at your expense to the entire Club membership. I feel that it is only fair to inform you that proven, unjust reputational damage as specified above places each of you at substantial legal risk.

I am deeply dismayed that you chose in an apparently arbitrary and capricious manner to publicly inflict possible unjust defamatory harm on me and my friends, through the use of Club resources never intended by Club traditions, the By-Laws or The Standing Rules on Election Procedures to be wasted for vile purposes. Many of you have impressive and praiseworthy track records of service to the Club and the environmental movement. However, in the current instance I believe you have made **an extremely grievous error**. To protect the Club's reputation and its fundraising capacities, the environmental movement, and each of your personal reputations I have so far not engaged in concerted legal action to seek justified redress. I hope you appreciate my restraint and are wise enough to understand the nature of this situation before some of your current options become foreclosed with the passage of time.



Anthony

October 1997 .

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- Leonard, Richard M. Mountaineer, Lawyer, Environmentalist. 1975, 482 pp.
- Livermore, Norman B. Jr., Man in the Middle: High Sierra Packer, Timberman, Conservationist, and California Resources Secretary. 1983, 285 pp.
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ANN LAGE

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Postgraduate studies, University of California, Berkeley, American history and education.

Chairman, Sierra Club History Committee, 1978-1986; oral history coordinator, 1974-present; Chairman, Sierra Club Library Committee, 1993-present.

Interviewer/Editor, Regional Oral History Office, in the fields of natural resources and the environment, university history, California political history, 1976-present.

Principal Editor, assistant office head, Regional Oral History Office, 1994-present.

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